

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2316

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2316

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 28, 1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 51-2314 |
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| | | | |
| Committee Clerk Signature <i>James A. Kail</i> | | | |

Minutes: Chairman Krebsbach called the committee to order. The clerk was instructed to call the roll. At this time the hearing was opened on SB 2316 which is a bill relating to the filing of campaign contribution statements by political committees organized in support of candidates. Senator Jerry Kelsh, representing District 26, primary sponsor of the bill appeared before the committee to explain the purpose of this proposed piece of legislation. The reason for SB 2316 was that while working for a political party this past year he discovered that committees that were formed to reelect a candidate or elect a candidate did not have to report contributions. For instance, if a check was made out to Kelsh for Senate that would be put into an account and he would have to report that as to who it came from. If the check was made out to the committee to reelect Senator Kelsh that committee then would turn that money over to the candidate, the candidate, the only he has to do is report that they got that money from that committee and nobody would ever know where it came from. I think that is not the spirit of the law. I think the

spirit of the law is that we know which side of the aisle they are on is the side that the money is coming from. All SB 2316 does is say that any political committee organized in support of a candidate also has to report, file a report of where they received the money that they got as a committee to reelect or elect anyone. It's something I don't think we realized was in the law. I know that people have used it to maybe get around letting us know where the money came from and I don't think that is what this legislature intended. I don't think that's what anyone intended. At this time Senator Kelsh indicated he would be happy to take anyone's questions. SENATOR KILZER-Is political committee defined any place? SENATOR KELSH indicated that it is defined in another section of the law. I don't have that with me right now, I know there are definitions of that in law. SENATOR THANE-Would there be a way, it almost looks like there would have to be two reports filed? Would there be a way they could be incorporated into one report and both the political committee and the candidate jointly would be required to, you know what I am saying? Otherwise it would seem like it would be one filed by the political committee and one filed by the candidate. Can you visualize a way it could be one joint report? SENATOR KELSH-I had not thought of that. SENATOR THANE-Because surely a candidate is in touch with his political committee, otherwise why has he got one? It would seem to me it would be an advantage on cutting down on the paperwork. Whether it be a requirement that both people sign it perhaps whatever the case might be. SENATOR KELSH-That certainly is a possibility. I think the spirit of this bill is that we know where that money has come from. I don't really care if you can make it work so that there is only one report filed. I don't know just exactly how you would do that, but it's a possibility I'm sure. SENATOR KREBSBACH-Senator Kelsh, how would this differ from the political action committees or the PACs and their reporting and so on.

SENATOR KELSH-Political Action Committees are another section of law. They have to report who they give money to, I believe it's over \$200.00 so their report is a little different. They report to the secretary of state and it's open. Anyone can go in and get the report. Anything they give to a candidate or committee has to be reported if over \$200.00. SENATOR KREBSBACH-The political committee organization you're speaking of does the same. They have to report do they not or the candidate reports. SENATOR KELSH-What would happen if there's the committee and they have accepted donations from various people, even if it's a \$500.00 donation and they turn it over to the candidate, all the candidate does is report that they got from the committee to reelect Kelsh. They do not give the amount of what they got from the committee. The law states that the committee does not have to report. So, in other words we don't know where that money has come from. I have Corey Fong here to help answer some questions.

COREY FONG-Elections Director with the Secretary of State's Office appeared before the committee in neutral position on SB 2313. He indicated that he did not have any formal testimony but he wanted to be here to answer questions which might come up. He indicated there is a definition in code for political committee. That is found in the definitions section 16.1-08.1-01 of the code. He spoke about political committees and what requirements they must meet. He suggested that perhaps an amendment could be added to the bill on 10 using the words or several candidates to make this more inclusive. A discussion ensued involving Mr. Fong, Senator Thane, and Senator W. Stenehjem. Senator DeMers commented that in her district there is a reelection committee that serves all three candidates. Discussion with Mr. Fong continued with additional questions from Senators Thane, Krebsbach, and Kilzer. There were no further questions at this time. Appearing before the committee was former representative JIM COATS

of Mandan. He indicated to the committee that he supports this proposed legislation. He indicated that he wondered where the reports should correctly should go? COREY FONG indicated that this was a good question because as it now stands some reports go to the Secretary of State's Office while others go to county auditors offices. It is split up in several different places make it difficult to keep track of the records. Following a brief discussion there was no further testimony offered in support of, neutral position, or in opposition to SB 2316. The hearing was closed by CHAIRMAN KREBSBACH at this time.

Committee Discussion and Action: February 12, 1999, Tape 1, Side A, Meter #'s 3595-3900.

Senator DeMers indicated she had shared the amendments with the prime sponsor of the bill.

He indicated to Senator DeMers that he had no problems with the amendments as proposed.

As such Senator DeMers made a motion to adopt the amendments as proposed. The motion

was seconded by Senator Mutzenberger. Roll Call Vote indicated 7 Yeas, 0 Nays, and 0

Absent or not Voting. A motion for Do Pass as Amended was made by made by Senator W.

Stenehjem, seconded by Senator DeMers. Roll Call Vote indicated 7 Yeas, 0 Nays, 0 Absent or

Not Voting. Senator Mutzenberger volunteered to carry the bill.

Date: 2/12/99
Roll Call Vote #: 2316

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number Accept with amendments

Action Taken _____

Motion Made By DeMus Seconded By Mutzenberger

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| SENATOR KREBSBACH | ✓ | | | | |
| SENATOR WARDNER | ✓ | | | | |
| SENATOR KILZER | ✓ | | | | |
| SENATOR STENEHJEM | ✓ | | | | |
| SENATOR THANE | ✓ | | | | |
| SENATOR DEMERS | ✓ | | | | |
| SENATOR MUTZENBERGER | ✓ | | | | |
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Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 2/12/99
Roll Call Vote #: 2316

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number Do Pass SB2316 w/amendments

Action Taken _____

Motion Made By W. Steadjein Seconded By Judy Demers

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| SENATOR KREBSBACH | ✓ | | | | |
| SENATOR WARDNER | ✓ | | | | |
| SENATOR KILZER | ✓ | | | | |
| SENATOR STENEHJEM | ✓ | | | | |
| SENATOR THANE | ✓ | | | | |
| SENATOR DEMERS | ✓ | | | | |
| SENATOR MUTZENBERGER | ✓ | | | | |
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Total (Yes) 7 No 0

Absent _____

Floor Assignment Sen. Mutzenberger

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

REPORT OF STANDING COMMITTEE

SB 2316: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2316 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "16.1-08.1-01,", replace the second "and" with ", 16.1-08.1-03,", and after "16.1-08.1-03.2" insert ", subsection 3 of section 16.1-08.1-03.3, sections 16.1-08.1-03.6, and 16.1-08.1-06"

Page 1, line 2, remove "the filing of" and replace "by political" with a period

Page 1, remove line 3

Page 1, after line 4, insert:

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

16.1-08.1-01. Definitions. As used in this chapter, unless the context otherwise plainly requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office.
3. "Contribution" means a gift, subscription, loan, advance, or deposit of money, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. Contribution also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes, ~~and~~. Contribution includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source except as provided in subdivision d. This definition does not include:
 - a. A loan of money from a bank or other lending institution made in the regular course of business.
 - b. Time spent by volunteer campaign or political party workers.
 - c. Money spent by a candidate on the candidate's own behalf.
 - d. ~~Any money received from a district or state committee of a political party, as established pursuant to sections 16.1-03-06 and 16.1-03-08, except for contributions reported pursuant to section 16.1-08.1-03 by a candidate for public office which is immediately transferred or~~

signed over to a district or state committee of a political party within ten days of the candidate receiving the money. A transfer of this kind must be reported by the district or state committee of the political party as a contribution according to section 16.1-08.1-03, and show the origin of the contribution.

4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code.
5. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or property, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
6. "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
7. "Person" means an individual, partnership, committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
8. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures primarily for political purposes and any committee organized in support of a candidate or several candidates seeking public office.
9. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, a political committee, a political party, or any person. The term does not include activities undertaken in the performance of a duty of a state office.
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."

Page 1, line 10, after "candidate" insert "or several candidates"

Page 2, line 1, remove "for" and overstrike "a legislative candidate must be filed in the office of the county auditor"

Page 2, line 2, overstrike "of the candidate's county of residence. Statements", remove "for", and overstrike "state office candidates"

Page 2, line 5, overstrike "calendar year" and insert immediately thereafter "reporting period"

page 2, after line 6, insert:

"SECTION 3. AMENDMENT. Section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03. Contributions statement required of political parties. Any political party that receives contributions in excess of one hundred dollars in the aggregate during the reporting period shall file a statement containing a detailed list of all contributions received from a person or political committee which exceed one hundred dollars in amount. The statement must include the name and mailing address of all contributors listed, the amount of each reportable contribution, and the date each reportable contribution was received.

A yearend 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 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 day before the election.

Even if the political party has not received any contributions in excess of one hundred dollars during the reporting period, the political party shall file a statement as required by this chapter."

Page 2, line 14, after the period insert "Political committees that organize and register according to federal law shall register within five days of making a contribution to a nonfederal candidate seeking public office and in doing so shall follow the reporting requirements provided in section 16.1-08.1-03.3."

Page 2, after line 14, insert:

"SECTION 5. AMENDMENT. Subsection 3 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. All political committees 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 one 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 yearend statement covering the entire calendar year must be filed no later than the thirty-first day 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. Political committees that organize and register according to federal law and the laws of this state must only report contributions received and expenditures made by the committee registered in this state as provided by this section.

SECTION 6. AMENDMENT. Section 16.1-08.1-03.6 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.6. Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited. A candidate or a political party may not accept a contribution in an amount exceeding two hundred dollars from another candidate's campaign contributions, from contributions

made to a person who was a candidate within the previous six years, or from a federal campaign committee account unless:

1. The person who makes a contribution from such funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate or a political party; and
2. The receiving candidate or a political party files a disclosure statement with the same office as required under section 16.1-08.1-02 for campaign contribution statements within forty-eight hours after receiving the contribution. The statement must include a copy of the permission statement required of the donating person under subsection 1.

A contribution requiring permission according to this section does not include any money received by a candidate that is immediately transferred or signed over to a district or state committee of a political party within ten days of the candidate receiving the contribution.

SECTION 7. 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 statement requirements. A statement required by this chapter to be filed with the secretary of state or county auditor must be:

1. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed to the secretary of state ~~or county auditor~~, but if it is not received, a duplicate of the statement must be promptly filed upon notice by the secretary of state ~~or county auditor~~ of its nonreceipt.
2. Preserved by the secretary of state ~~or county 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 secretary of state's ~~or county auditor's~~ office and must be open to public inspection.

If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state ~~or county auditor~~ is closed, the statement must be filed on the next available day on which the office of the secretary of state ~~or county auditor~~ 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. Aggregated contributions must reference the date of the most recent contribution. Contributions made separately from joint accounts must be aggregated and reported as originating from one source."

Renumber accordingly

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2316

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2316

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-18-1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-------------|
| 1 | | X | 57.8 - 59.6 |
| 2 | X | | 0.1 - 0.7 |
| Committee Clerk Signature <i>J.M. Williams</i> | | | |

Minutes: Chairman Klein instructed the committee to take out SB 2316 and act on this bill.

Summary of the Bill: Relating to campaign contribution statements.

Representative Hawken, We have pretty much put this into SB 2148. Isn't that correct?

Representative Klein, That's correct. Any discussion? None.

Committee Action:

Representative Haas, Made a motion for a Do Not Pass.

Representative Grande, Seconded the motion.

Motion Passes: Do Not Pass **11-4.**

Representative Klein, Is the carrier for the bill.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

| Date March 19, 1999 | | | |
|---|--------|--------|-----------|
| Tape Number | Side A | B Side | Meter # |
| 1 | X | | 0.4 - 7.8 |
| | | | |
| Committee Clerk Signature <i>Jim McWilliams</i> | | | |

Minutes: Chairman Klein instructed the committee that we will proceed with the work of acting on what bills are left in committee. ***Please note *This general discussion consisted of two bills, SB 2148 and SB 2316.***

Representative Cleary, Can I move for reconsideration of SB 2148? I didn't get a chance to read all the amendments. It was the bill we acted on yesterday.

Chairman Klein, SB 2148 didn't we kick that one out?

Jim McWilliams, Committee clerk stated that I turned that in and it's at the desk.

Representative Devlin, What's the reason to reconsider?

Representative Cleary, I just read the amendments a little more closely and I saw that one part was omitted.

Chairman Klein, Maybe what we should do is to reconsider the other one we are still holding (SB 2316).

Representative Cleary, Made a motion to reconsider 2316.

Representative Fairfield, Seconded the motion.

Representative Cleary, The part that was in SB 2316 that was excluded from SB 2148 is the part about political committees.

Representative Devlin, Isn't it still in SB 2316. It came out of committee Do Not Pass, but it still goes to the floor and if you support it, you can argue that on the floor.

Representative Hawken, In our district, our political committee is the district. For us this is just an additional step. It would be a third report in addition to the two that were already doing. I know this isn't true for everybody.

Representative Klein, Do you want us to reconsider this in committee or do you want to do what you need to do on the floor?

Representative Cleary, What can we do on the floor?

Chairman Klein, You make your case.

Representative Kroeber, We were under the impression that 2316 was amended into the other bill, and it wasn't. There were parts that were left out. We had very little time to look at those amendments before we voted on it. We would have rather reconsidered the other bill (SB 2148) and then have a minority report on those amendments. If that's gone, we can't do that. I guess we don't have anything to gain by reconsidering our actions on this.

General Discussion

Page 3

Government and Veterans Affairs

3-19-1999

Representative Devlin, Unless you want to take out or add something to SB 2316. But if your going to leave it intact, there's no reason to reconsider it. You can certainly do it if you want though.

Representative Winrich, Is it still possible to file a minority report on SB 2148?

Chairman Klein, It's already on the floor, at the desk. You could pull the amendments off it on the floor (6th order of business). OK, lets move on to other action. End of discussion.

20297
157

PROPOSED AMENDMENTS TO SENATE BILL NO. 2316

SENATE AMENDMENTS TO SB 2316

GVA

2/12/99

Page 1, line 1, after "sections" insert "16.1-08.1-01,", replace the second "and" with ",
16.1-08.1-03,", and after "16.1-08.1-03.2" insert ", subsection 3 of section
16.1-08.1-03.3, sections 16.1-08.1-03.6, and 16.1-08.1-06"

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 - a. A loan of money from a bank or other lending institution made in the regular course of business.
 - b. Time spent by volunteer campaign or political party workers.
 - c. Money spent by a candidate on the candidate's own behalf.
 - d. Any money received from a district or state committee of a political party, as established pursuant to sections 16.1-03-06 and 16.1-03-08, except for contributions reported pursuant to section 16.1-08.1-03 by a candidate for public office which is immediately transferred or signed over to a district or state committee of a political party within ten days

of the candidate receiving the money. A transfer of this kind must be reported by the district or state committee of the political party as a contribution according to section 16.1-08.1-03, and show the origin of the contribution.

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9. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, a political committee, a political party, or any person. The term does not include activities undertaken in the performance of a duty of a state office.
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Page 1, line 10, after "candidate" insert "or several candidates"

SENATE AMENDMENTS TO SB 2316

GVA

2/12/99

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Page 2, line 2, overstrike "of the candidate's county of residence. Statements", remove "for", and overstrike "state office candidates"

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Even if the political party has not received any contributions in excess of one hundred dollars during the reporting period, the political party shall file a statement as required by this chapter."

Page 2, line 14, after the period insert "Political committees that organize and register according to federal law shall register within five days of making a contribution to a nonfederal candidate seeking public office and in doing so shall follow the reporting requirements provided in section 16.1-08.1-03.3."

Page 2, after line 14, insert:

"SECTION 5. AMENDMENT. Subsection 3 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. All political committees 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 one 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 yearend statement covering the entire calendar year must be filed no later than the thirty-first day 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. Political committees that organize and register according to federal law and the laws of this state must only report contributions received and expenditures made by the committee registered in this state as provided by this section.

SECTION 6. AMENDMENT. Section 16.1-08.1-03.6 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.6. Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited. A candidate or a political party may not accept a contribution in an amount exceeding two hundred dollars from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous six years, or from a federal campaign committee account unless:

1. The person who makes a contribution from such funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate or a political party; and
2. The receiving candidate or a political party files a disclosure statement with the same office as required under section 16.1-08.1-02 for campaign contribution statements within forty-eight hours after receiving the contribution. The statement must include a copy of the permission statement required of the donating person under subsection 1.

A contribution requiring permission according to this section does not include any money received by a candidate that is immediately transferred or signed over to a district or state committee of a political party within ten days of the candidate receiving the contribution.

SECTION 7. 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 statement requirements. A statement required by this chapter to be filed with the secretary of state or county auditor must be:

1. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed to the secretary of state ~~or county auditor~~, but if it is not received, a duplicate of the statement must be promptly filed upon notice by the secretary of state ~~or county auditor~~ of its nonreceipt.
2. Preserved by the secretary of state ~~or county 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 secretary of state's ~~or county auditor's~~ office and must be open to public inspection.

If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state ~~or county auditor~~ is closed, the statement must be filed on the next available day on which the office of the secretary of state ~~or county auditor~~ 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. Aggregated contributions must reference the date of the most recent contribution. Contributions made separately from joint accounts must be aggregated and reported as originating from one source."

Renumber accordingly

Date: 3-18-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2316

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By HAAS Seconded By GRANDE

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------|-----|----|-----------------|-----|----|
| CHAIRMAN KLEIN | ✓ | | REP. WINRICH | | ✓ |
| VICE-CHAIR KLINISKE | ✓ | | | | |
| REP. BREKKE | ✓ | | | | |
| REP. CLEARY | | ✓ | | | |
| REP. DEVLIN | ✓ | | | | |
| REP. FAIRFIELD | | ✓ | | | |
| REP. GORDER | ✓ | | | | |
| REP. GRANDE | ✓ | | | | |
| REP. HAAS | ✓ | | | | |
| REP. HAWKEN | ✓ | | | | |
| REP. KLEMIN | ✓ | | | | |
| REP. KROEBER | | ✓ | | | |
| REP. METCALF | ✓ | | | | |
| REP. THORESON | ✓ | | | | |

Total (Yes) 11 No 4

Absent 0

Floor Assignment KLEIN

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

REPORT OF STANDING COMMITTEE (410)
March 18, 1999 11:41 a.m.

Module No: HR-49-5077
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2316, as engrossed: **Government and Veterans Affairs Committee (Rep. Klein, Chairman)** recommends **DO NOT PASS** (11 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2316 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2316

ALVIN A. JAEGER
SECRETARY OF STATE
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SECRETARY OF STATE

February 10, 1999

TO: Senator Wayne Stenehjem and Members of the Government and Veterans Affairs Committee

FR: Cory G. Fong, Elections Director

RE: **SB 2316 – Political Committees – Proposed Amendments – With Notes**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2316

Page 1, line 10, after "candidate" insert ", or several candidates." ¹

Page 2, line 1, remove "for" and overstrike "a legislative candidate must be filed in the office of the county auditor"

Page 2, line 2, overstrike "of the candidate's county of residence. Statements" and remove "for"

Page 2, line 2, overstrike "state office candidates" ²

Page 2, line 5, overstrike "calendar year" and immediately insert "reporting period" ³

Page 2, line 14, after "dollars." Insert "Political committees that organize and register according to federal law must register within five days of making a contribution to a non-federal candidate seeking public office and in doing so shall follow the reporting requirements provided for in section 16.1-08.1-03.3." ⁴

Page 2, after line 14, insert:

"SECTION 3. AMENDMENT. Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-01. Definitions. As used in this chapter, unless the context otherwise plainly requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office.

3. "Contribution" means a gift, subscription, loan, advance, or deposit of money, made for the purpose of influencing the nomination for election, or election, of any person to public office, of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. Contribution also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes, ~~and~~. Contribution includes funds received by a candidate for public office, or political party or committee which are transferred or signed over to that candidate, party or committee from another candidate, party or political committee or other source except as provided for in subsection d. This definition does not include:
 - a. A loan of money from a bank or other lending institution made in the regular course of business.
 - b. Time spent by volunteer campaign or political party workers.
 - c. Money spent by a candidate on the candidate's own behalf.
 - d. ~~Any money received from a district or state committee of a political party, as established pursuant to sections 16.1-03-06 and 16.1-03-08, except for contributions reported pursuant to section 16.1-08.1-03 by a candidate for public office that is immediately transferred or signed over to a district or state committee of a political party within ten days of the candidate receiving it. A transfer of this kind must be reported by the district or state committee of the political party as a contribution according to section 16.1-08.1-03 and show the origin of the contribution.~~⁵
4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code.
5. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or property, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
6. "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
7. "Person" means an individual, partnership, committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
8. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures primarily for political purposes and any committee organized in support of a candidate, or several candidates, seeking public office.⁶
9. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, a political committee, a political party, or any person. The term does not include activities undertaken in the performance of a duty of a state office.
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 4. AMENDMENT. Section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03. Contributions statement required of political parties. Any political party that receives contributions in excess of one hundred dollars in the aggregate during the reporting period shall file a statement containing a detailed list of all contributions received from a person or political committee which exceed one hundred dollars in amount. The statement must include the name and mailing address of all contributors listed, the amount of each reportable contribution, and the date each reportable contribution was received.

A yearend 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 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 day before the election.

Even if the political party has not received any contributions in excess of one hundred dollars during the reporting period, the political party shall file a statement as required by this chapter.⁷

SECTION 5. AMENDMENT. Subsection 3 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

3. All political committees 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 one 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 yearend statement covering the entire calendar year must be filed no later than the thirty-first day 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. Political committees that organize and register according to federal law and the laws of this state must only report contributions received and expenditures made by the committee registered in this state as provided by this section.⁸

SECTION 6. AMENDMENT. Section 16.1-08.1-03.6 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.6. Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited. A candidate or a political party may not accept a contribution in an amount exceeding two hundred dollars from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous six years, or from a federal campaign committee account unless:

1. The person who makes a contribution from such funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate or a political party; and

2. The receiving candidate or a political party files a disclosure statement with the same office as required under section 16.1-08.1-02 and 16.1-08.1-03 for campaign contribution statements within forty-eight hours after receiving the contribution. The statement must include a copy of the permission statement required of the donating person under subsection 1.

A contribution requiring permission according to this section does not include any money received by a candidate for public office that is immediately transferred or signed over to a district or state committee of a political party within ten days of the candidate receiving it.⁹

SECTION 7. 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 statement requirements. A statement required by this chapter to be filed with the secretary of state ~~or county auditor~~ must be:

1. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed to the secretary of state ~~or county auditor~~, but if it is not received, a duplicate of the statement must be promptly filed upon notice by the secretary of state ~~or county auditor~~ of its nonreceipt.
2. Preserved by the secretary of state ~~or county 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 secretary of state's ~~or county auditor's~~ office and must be open to public inspection.

If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state ~~or county auditor~~ is closed, the statement must be filed on the next available day on which the office of the secretary of state ~~or county auditor~~ 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. Aggregated contributions must reference the date of the most recent contribution. Contributions made separately from joint accounts must be aggregated and reported as originating from one source."¹⁰

Renumber accordingly

¹ These amendments require political committees that organize on behalf of several candidates to register. This is to address the growing presence of political committees like Bismarck Area Republican Council, District 44 Republican Campaign Committee, etc.

² These amendments change the filing venue for legislative candidates from their county auditor's office to the Secretary of State's office. These amendments essentially centralize all campaign disclosure and reporting in the Secretary of State's office. With this change, the following entities would file disclosure with the Secretary of State: statewide and legislative candidates, state and district political parties, candidate political committees (e.g. BARC), corporate/association political committees or PACS (e.g. AGC PAC), and measure committees.

³ These amendments base reporting for candidates and their political committees on activity in the "reporting period" v. the "calendar year". The term "calendar year" is not accurate for all reporting situations.

⁴ These amendments attempt to address the growing presence of federally registered PACs (e.g. NRA PAC) that are making contributions to statewide and legislative candidates (e.g. Governor, Insurance Commissioner, State Senator, etc.) in North Dakota.

Current law does not address what prompts their registering and reporting since in most cases these federal PACs are pre-existing and have been accepting contributions for many years. In most cases, these PACs are only interested in making one-time contributions to North Dakota candidates.

Current practice in this office is to require these PACs to only file with this office the portion of their Federal Election Commission (FEC) report showing when such contributions were made to North Dakota candidates. However, this practice does not force these PACs to register as a political committee in North Dakota or report contributions received and expenditures made according to the political reporting requirements and cycles in North Dakota. To force them to register under present law, which requires political committees to report within five days of receiving any funds, seems to imply they broke the law in advance of activity. More importantly, to require these federal PACs to report all contributions received and expenditures made would place an undue burden upon these PACs and require the Secretary of State's office to build a new wing off the capitol (perhaps a slight exaggeration) just to store the reports.

These amendments prompt these federal PACs to register when they make a contribution to a North Dakota candidate v. when they receive any contributions. Therefore, a federal PAC can still make a contribution to a North Dakota candidate and still register as a political committee according to North Dakota law. Once a federal PAC has registered as a political committee in North Dakota it must then report activity according to North Dakota law.

⁵ These amendments attempt to better clarify that all transfers of funds or monies (including signing over checks) between candidates, political parties, and political committees are considered contributions. An important exception has been made to account for the common practice of legislative candidates signing over contributions to their district political parties. If such a transfer is made within 10 days of the candidate receiving it, it is not considered a contribution for their reporting purposes. However, it would be considered a contribution for the political part and as such would have to be reported according to the law.

⁶ This amendment clarifies that political committees also include committees organized in support of a candidate or several candidates seeking public office.

⁷ This amendment makes those reporting requirements for political parties consistent with those of candidates by requiring political parties to report even if they did not receive any reportable contributions.

⁸ SEE End Note 4

⁹ The creation of section 16.1-08.1-03.6 during the 1997 legislative session attempted to respond to the common practice of passing contributions, over \$200, onto state and legislative candidates from other candidates, previous candidates, and more importantly, from federal campaign committees. While the new law does not prohibit such a practice, it makes it more cumbersome since a permission statement is required.

However, a loophole to circumvent the permission statement used political parties as the initial conduit for passing on such contributions.

These amendments attempt to “plug” that loophole by applying the permission statement to large contributions received by political parties from other candidates, previous candidates, or federal campaign committees as well.

These amendments also provide an exception to account for the common practice of legislative candidates transferring or signing over contributions to the district political party. SEE End Note 5

¹⁰ These amendments eliminate language pertaining to legislative candidates filing contribution statements with their county auditor of residence. They also attempt to clarify the following:

1. Aggregate contributions must be reported as an overall contribution rather than split up and must correspond to the date of the most recent contribution.
2. Contributions made separately from joint accounts must be aggregated for reporting purposes.

1997-99

**HELPFUL CAMPAIGN
PRACTICES**
(Formerly CORRUPT PRACTICES)



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revised November 1997

Alternate formats for disabled persons are available upon request.

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FORWARD

This pamphlet is a compilation of laws found in the North Dakota Century Code and was formerly known as *Corrupt Practices*. These are laws relating to political campaigns, political advertising, electioneering, election polls, and the penalties for improper conduct. *Helpful Campaign Practices* is a helpful companion to *How To Run For Public Office In North Dakota* also published by the Secretary of State. It's a reference source for candidates, political parties, district political committees, poll workers, voters, and others with an interest in election procedures. If you have questions regarding this pamphlet, please contact the Elections Division of the Secretary of State's office by calling 701-328-4146, emailing soselect@pioneer.state.nd.us, or writing to the address printed on the front cover.

*** DISCLAIMER ***

The following excerpts of North Dakota law are from the North Dakota Century Code (NDCC) and pertain to elections, election procedures, and campaign practices. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority or weight as the actual NDCC and should not be equated with the official NDCC as an equal authority. This compilation is only intended as a helpful resource and reference for consolidated election and campaign related laws. For official and legal purposes, the official NDCC should be used.

In addition, the following excerpts of North Dakota law do not contain the material found in the notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates.

*** DISCLAIMER ***

**CHAPTER 16.1-10
CORRUPT PRACTICES**

16.1-10-01. Corrupt practice - What constitutes. A person is guilty of corrupt practice within the meaning of this chapter, if he willfully engages in any of the following:

1. Expends any money for election purposes contrary to the provisions of this chapter.
2. Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.
3. Is guilty of the use of state services or property for political purposes.

16.1-10-02. Use of state services or property for political purposes.

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, or commission thereof, for any political purpose.
2. The following definitions must be used for the purposes of this section:
 - a. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person, but does not include activities undertaken in the performance of a duty of state office.
 - b. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section may be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.
 - c. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

16.1-10-03. Political badge, button, or insignia at elections. No person may, on the day of an election, buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia may be worn at or about the polls on any election day.

16.1-10-04. Publication of false information in political advertisements - Penalty. No person may knowingly sponsor any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which the sponsor knows to be untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether such publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, or by any other public means. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, or by any other public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, must disclose at the bottom of the advertisement the name or names of the sponsor or sponsors of the advertisement, and the name or names of the person, persons, associations, or partnerships paying for the advertisement. If the name of an association or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the association or partnership. The name or names of the person, persons, associations, or partnerships paying for any

radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of an association or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the association or partnership. In every political advertisement in which the name of the sponsor or person, association, or partnership paying for the advertisement is disclosed, the first and last name of any named person must be disclosed. This section does not apply to campaign buttons.

16.1-10-05. Paying owner, editor, publisher, or agent of newspaper to advocate or oppose candidate editorially prohibited. No person may pay or give anything of value to the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce him to advocate editorially or to oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent may accept such inducement.

16.1-10-06. Electioneering on election day - Penalty. Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, is guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, may not, however, be deemed a violation of this section.

16.1-10-06.1. Paying another person for attendance at polls, transporting persons, registering, and personal services prohibited. No person may pay another person for:

1. Any loss or damage due to attendance at the polls;
2. Registering;
3. The expense of transportation to or from the polls; or
4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

The provisions of this section do not apply to the hiring of a person whose sole duty it is to act as a challenger and to watch the count of official ballots.

16.1-10-06.2. Sale or distribution at polling place. No person may approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. This prohibition applies in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place on election day.

16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office. If any person is found guilty of any corrupt practice he must be punished by being deprived of his government job, or his nomination or election must be declared void, as the case may be. This section does not remove from office a person who is already in office and who has entered upon the discharge of his duties where such office is subject to the impeachment provisions of the Constitution of North Dakota.

16.1-10-08. Penalty for violation of chapter. Any person violating any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

CHAPTER 12.1-14
OFFICIAL OPPRESSION - ELECTIONS - CIVIL RIGHTS

12.1-14-02. Interference with elections. A person is guilty of a class A misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.
2. Injures, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.

12.1-14-03. Safeguarding elections. A person is guilty of a class A misdemeanor if, in connection with any election, he:

1. Makes or induces any false voting registration;
2. Offers, gives, or agrees to give a thing of pecuniary value to another as consideration for the recipient's voting or withholding his vote or voting for or against any candidate or issue or for such conduct by another;
3. Solicits, accepts, or agrees to accept a thing of pecuniary value as consideration for conduct prohibited under subsection 1 or 2; or
4. Otherwise obstructs or interferes with the lawful conduct of such election or registration therefor.

As used in this section, "thing of pecuniary value" shall include alcoholic beverages, by the drink or in any other container.

CHAPTER 39-01
DEFINITIONS AND GENERAL PROVISIONS

39-01-04. "Political activity" defined. The term "political activity" as used in this chapter includes any form of campaigning or electioneering, such as attending or arranging for political meetings, transporting candidates or workers engaged in campaigning or electioneering, distributing campaign literature, political guide cards, and placards, soliciting or canvassing for campaign funds, transporting electors to the polls on election day, and any other form of political work usually and ordinarily engaged in by state officers and employees during primary and general election campaigns.

39-01-05. Expenses not to be collected by state officers or employees engaged in political activity. No state officer or employee of this state, or of any department, board, bureau, commission, institution, industry, or other agency thereof, who uses or drives any privately owned motor vehicle while engaged in political activity, may collect or receive, directly or indirectly, from this state, or any department, board, bureau, commission, institution, industry, or other agency thereof, any expense moneys whatsoever for the use or operation of any such motor vehicle on any day on which such political work was done, and no such state officer or public employee may collect or receive any traveling expense reimbursement from this state, or any department, board, bureau, commission, institution, or other agency thereof for any time spent engaging in any political activity.

CHAPTER 44-08
MISCELLANEOUS PROVISIONS

44-08-19. Political activities by public employees prohibited while on duty - Definition.

1. No public employee may engage in political activities while on duty or in uniform. Although nothing in this section prevents any such employee from becoming or continuing to be a member or officer of a political club or organization, from attendance at a political meeting, from contributing to or otherwise supporting candidates of his choice, from enjoying entire freedom from all interference in casting his vote or favoring candidates, or from seeking or accepting election or appointment to public office, the governing body of any political subdivision may adopt appropriate ordinances prohibiting public employees from engaging in political activities while such employees are on duty or in uniform.
2. For the purposes of this section, "political activities" means those activities defined by section 39-01-04.

44-08-21. Recall of elected officials of political subdivisions.

An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections, except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors. The provisions of section 16.1-01-09, as they relate to signing and circulating recall petitions, apply to petitions under this section.

The petition may include the stated reason for the recall and must be filed with the official with whom a petition for nomination to the office in question is filed unless that official is the person subject to recall, in which case the petition must be filed with the secretary of state. The official with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section 16.1-01-10. Except as otherwise provided in this section, the official shall call a special election to be held within sixty days if the official finds the petition valid and sufficient. No special election may be called if the date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate official by the thirty-third day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint a person to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected.

**CHAPTER 54-02
STATE EMBLEMS, SYMBOLS, AND AWARDS**

54-02-01. GREAT SEAL - PERMITTED USES - PENALTY FOR COMMERCIAL USE.

1. The great seal of the state is that prescribed in section 2 of article XI of the Constitution of North Dakota. A description in writing of such seal must be deposited and recorded in the office of the secretary of state and must remain a public record. A reproduction of the great seal may be placed on any official form, document, or stationery of any agency, authority, board, body, branch, bureau, commission, committee, council, department, division, industry, institution, or instrumentality of the state or of any elected or appointed official of the state. A reproduction of the great seal may be placed on business calling cards produced for the use of an elected or appointed state official or state employee regardless of whether the cards are purchased by the official or employee or by the state. Any use of the great seal on any other object or thing by any of the foregoing state entities or officials is prohibited unless approved by the secretary of state; provided, however, that the state historical society and the parks and recreation department may, with the concurrence of the secretary of state, reproduce the great seal on any objects they offer for sale as souvenirs.

2. It is a class B misdemeanor for any person to:
 - a. Place or cause to be placed the great seal, or any reproduction of the great seal, on any political badge, button, insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the great seal for any political purpose, as defined in section 16.1-10-02.
 - b. Place or cause to be placed on the great seal, or any reproduction thereof, any advertisement.
 - c. Expose the great seal, or any reproduction thereof, to public view with any advertisement attached thereto.
 - d. Utilize the great seal, or a copy or reproduction thereof, for any commercial purpose. As used in this subsection, "advertisement" means any printed matter, device, picture, or symbol, no matter how presented to the senses, which informs the public that a good or service is available; and "commercial purpose" means with intent to produce a pecuniary gain through sale of a good or service. Notwithstanding any other provision of law, the secretary of state may grant a written request by a private vendor to reproduce official state forms and documents, containing a reproduction of the great seal, for resale to persons intending to submit the forms or documents to any state entity in the regular course of business. The secretary of state may also grant a written request by a publisher, educational institution, or author to reproduce the great seal in any research, reference, or educational publication containing a compilation of the great seals of other states.

**POLITICAL ADVERTISING UNDER THE
FEDERAL HIGHWAY BEAUTIFICATION ACT**

Political Advertising is controlled by the Federal Highway Beautification Act which prohibits such advertising on, or adjacent to the highway right of way on roads, either on the interstate or primary highway systems. Such zoning may be permitted in only commercial or industrial zoned areas, plus a few isolated exceptions. Candidates should obtain permits for signs which are in conforming areas. The Department of Transportation state or district offices may be contacted for more information or to provide individual attention to anyone needing assistance.

North Dakota Department of Transportation
DOT Building
608 East Boulevard Avenue
Bismarck ND 58505-0700

(701) 328-2500

CAMPAIGN DON'TS

As a candidate....

- ◆ Don't use any governmental (state, county, city) services or property (including telephone, postage, and building) for political purposes. NDCC § 16.1-10-02
- ◆ Don't give, sell, or wear political badges, buttons, or insignia on election day. No such political badge, button, or insignia may be worn at or about the polls on election day. NDCC § 16.1-10-03
- ◆ Don't allow government employees to work on your campaign while they are at work. NDCC § 16.1-10-02
- ◆ Don't pay another person for (1) loss or damage suffered due to voting attendance; (2) expense of transporting to or from the polls; (3) personal services to be performed on the day of a caucus, Primary Election, or any election which shall, directly or indirectly, affect the result of a caucus or election. NDCC § 16.1-10-06.1
- ◆ Don't serve on an election board or have a relative serve on an election board. NDCC § 16.1-05-02
- ◆ Don't give anything of value, or promise to give anything of value, including drinks, to another in return for the other's promise to vote or withhold his vote for or against any candidate. NDCC § 12.1-14-03



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 11, 1999

TO: Representative Klein and Members of the House Government and Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: SB 2316 – Campaign Disclosure

Senate Bill 2316 attempts to clarify and clean up a number of sections of North Dakota's campaign finance and disclosure laws found in Chapter 16.1-08.1. The original version of the bill, sponsored by Senator Kelsh, only attempted to address the reporting of political committees organized on behalf of candidates. However, a number of amendments offered by this office were also approved and included with the bill before its final passage by the Senate.

The following is a summary of the changes made by Senate Bill 2316.

Section 1. The bulk of the changes found in Section 1 attempt to better clarify that all transfers of funds or monies (including signing over checks) between candidates, political parties, and political committees are considered contributions. An important exception has been made however to account for the common practice of legislative candidates signing over contributions to their district political parties. If such a transfer is made within 10 days of the candidate receiving it, it is not considered a contribution for the candidates' reporting purposes. However, it would be considered a contribution for the political part and as such would have to be reported according to the law.

In addition, Section 1 removes language from existing law that indicates that money received from a state or district political party is not considered a contribution for reporting purposes. If this change were made, money received by candidates from their state or district political parties would have to be shown as a contribution if it exceeded the reportable threshold.

Section 1 also clarifies that political committees include committees organized in support of a candidate or several candidates seeking public office.

Section 2. These amendments require political committees that organize on behalf of several candidates to register. This change is aimed at addressing the growing presence of political committees that organize and function in that manner but are not registering or reporting.

In addition, Section 2 changes the filing venue for legislative candidates from their county auditor's office to the Secretary of State's office. These amendments essentially centralize all campaign disclosure and reporting in the Secretary of State's office.

The amendments in Section 2 also base reporting for candidates and their political committees on activity in the “reporting period” v. the “calendar year”. The term “calendar year” is not accurate for all reporting situations.

Section 3. This amendment makes those reporting requirements for political parties consistent with those for candidates by requiring political parties to report even if they did not receive any reportable contributions.

Sections 4 and 5. The changes made in Sections 4 and 5 attempt to address the growing presence of federally registered PACs (e.g. NRA PAC) that are making contributions to statewide and legislative candidates (e.g. Governor, Insurance Commissioner, State Senator, etc.) in North Dakota.

Current law does not address what prompts their registering and reporting since in most cases these federal PACs are pre-existing and have been accepting contributions for many years. In most cases, these PACs are only interested in making one-time contributions to North Dakota candidates.

The amendments in Sections 4 and 5 prompt these federal PACs to register when they make a contribution to a North Dakota candidate v. when they receive any contributions. Therefore, a federal PAC can still make a contribution to a North Dakota candidate but the change will force them to register as a political committee according to North Dakota law. Once a federal PAC has registered as a political committee in North Dakota it must then report activity according to North Dakota law.

Section 6. The creation of section 16.1-08.1-03.6 during the 1997 legislative session attempted to respond to the common practice of passing contributions onto state and legislative candidates from other candidates, previous candidates, and more importantly, from federal campaign committees. While the new law does not prohibit such a practice, it makes it more cumbersome since a permission statement is required for contributions passed on exceeding \$200.

The changes made in Section 6 attempt to apply the permission statement to contributions in excess of \$200 received by political parties from other candidates, previous candidates, or federal campaign committees as well.

There is also an important exception made in Section 6 to account for the common practice of legislative candidates transferring or signing over contributions to the district political party.

Section 7. The amendments in Section 7 eliminate language pertaining to legislative candidates filing contribution statements with their county auditor of residence. The changes in Section 7 also attempt to clarify the following:

1. Aggregate contributions must be reported as an overall contribution rather than split up and must correspond to the date of the most recent contribution.
2. Contributions made separately from joint accounts must be aggregated for reporting purposes.