

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

HB 1035

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1035
1/31/2019
31925

- Subcommittee
 Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures and election ballots

Minutes:

Attachments 1, 2, 3

Chairman Kasper opened the hearing on HB 1035.

Claire Ness, Legislative Council, appeared. I was the staff person for the initiated and referred measures study commission. Currently under the law the constitutional amendments and initiated measures and referred measures are printed on the ballot, but there is no information about their fiscal impact. Under 1035 that fiscal impact statement that would be prepared by the legislative council would be printed on the ballot with those measures so that they would be viewable by voters.

Rep. Schneider: Were there discussions about the difficulty in determining what the costs were?

Claire Ness: There were significant discussions about how to calculate the fiscal impact of a measure. What we do for bills currently is the legislative council reaches out to the regulatory agency who will be administering the program or measure and that agency calculates the anticipated fiscal impact based on their information that is available. The commission had a lot of discussion about whether or not that is reliable or that would be the best method for determining a fiscal impact. In the end that process was not adjusted. There was not consensus on whether or how it should be changed.

Rep. P. Anderson: What percent of fiscal notes you do now are on target?

Claire Ness: We did a backwards look at some of the fiscal notes that had been prepared in the past. They weren't many for initiated measures that had been prepared or had the one-year lookback. The commission did look at a couple of them, but I don't remember what the findings were, but I would be happy to prepare that information for the committee. Attachment 1 was provided a little later.

Jim Silrum, Deputy Director of Secretary of State, appeared to answer some questions.

Chairman Kasper: Referring to Line 17, how does your office get that information? What is the process to print the fiscal impact?

Mr. Silrum: That comes to us from legislative council, and that is what we publish.

Chairman Kasper: Do you have interchange with them during that process?

Mr. Silrum: We can have consult with them if need be. The only reason we would ever get involved is if the pending initiated measure would have an impact on our office specifically.

Rep. Rohr: When they take around the form that has to be signed by the people, the fiscal impact would be on that form as well in addition to a summary of the measure, or are we just talking about what is on the ballot when we vote?

Mr. Silrum: It is my understanding that this would be on the ballot. What is intended to go on to the ballot? Would it be a dollar amount or an explanation? That would have an impact on the ballot itself. Generally, our ballots are on a 17-inch front and back ballot. We can go as high as a 21-inch ballot. When we exceed that we go to a multi-page ballot which is more expensive and challenges the voter knowing they have to submit two sheets of paper.

Chairman Kasper: I believe the estimated fiscal impact would be a dollar amount.

Rep. Louser: The majority of the commission was made up of non-legislators. We had 7 or 8 ideas that came forward out of 30 some ideas. My understanding on this was just the dollar amount on the ballot. What you see before you is what that commission put forward. It is a fiscal note and a dollar amount.

Chairman Kasper: Rep. Steiner do you have any other thoughts since you were on that commission as well as Rep. Louser?

Vice Chair Steiner: No, he covered it very well.

Rep. C. Johnson: I would imagine it would include whether it is a one-time expenditure or ongoing.

Chairman Kasper: I would assume that would be a logical conclusion.

Chairman Kasper closed the hearing.

Chairman Kasper opened the meeting a little later on HB 1035. (12:20)

Rep. P. Anderson: I am struggling some with the dollar figure. I think there needs to be some explanation.

Chairman Kasper: Line 18 states a statement of the estimated fiscal impact.

Rep. Rohr: When I read that I felt good about it. If nothing else, it is going to spark the interest in that person to call the secretary of state's office and ask for clarification and in depth information.

Rep. Louser: Currently, any measure requires a fiscal note, and that goes through the approval process of legislative management. Then that gets posted on the secretary of state's website. Examples of some conflicts were given. The struggle with this is who says the fiscal note is right? Currently, we tell the citizens to go ahead and look at the secretary of state's website. Legislative management approved a fiscal note. Out of the 20 some ideas in that group all of that was discussed, and this is what you end up with and brought to a legislative committee to say what do you think? Should you vote for it or should we amend it?

Rep. B. Koppelman: I do not have the same concerns even if it is a dollar amount. Often we have an abbreviated version of a very detailed measure. **I make a motion for a DO PASS.**

Rep. Rohr seconded the motion.

Rep. Schneider: I am concerned that it might have an adverse political impact that might be inaccurate when it comes to assessing the value of the measure versus the cost to the people.

Rep. Schauer: It goes back into how much confidence you have in the people here. Are they truly bipartisan when they look at issues?

A roll call vote was taken. 10-3, 1 absent.

Rep. Vetter will carry the bill.

Attachments 2 and 3 were handed out by the law intern at the request of Chairman Kasper.

Date: 1-31-19
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1035**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description:

Recommendation:	<input type="checkbox"/> Adopt Amendment	<input checked="" type="checkbox"/> Do Pass <input type="checkbox"/> Do Not Pass	<input type="checkbox"/> Without Committee Recommendation
	<input type="checkbox"/> As Amended	<input type="checkbox"/> Place on Consent Calendar	<input type="checkbox"/> Rerrefer to Appropriations
Other Actions:	<input type="checkbox"/> Reconsiderer		

Other Actions: Reconsider

Motion Made By Rep. B. Kappeler Seconded By Rep. Rohr

Total (Yes) 10 No 3

Absent _____

Floor Assignment Rep- Deller

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

REPORT OF STANDING COMMITTEE

HB 1035: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).
HB 1035 was placed on the Eleventh order on the calendar.

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1035

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB1035
3/8/2019
#33429

- Subcommittee
- Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:
Relating to initiated measures and election ballots.

Minutes:

Chairman Davison: Let's open hearing for HB1035.

Claire Ness, L.C: I am neutral. This bill originated in the initiated/referred measure study commission. (.20-) This is a simple bill. Now fiscal impacts statements are not printed on the ballot. Our office coordinates the information from state agencies to put together the statements. This bill would require the fiscal impact statements to be put on the ballot for initiated and referred measures as well as constitutional amendments. They would be placed next to the summary of those. Any questions?

Sen. Erin Oban: How is the fiscal impact statement estimated and who does it?

Clair: (1.18) We reach out to the agencies we believe would be impacted by the measure. We gather that and compile. It comes directly from the executive branch agencies and what they think will happen. That becomes the statement.

Sen. Erin Oban: (1.47) Is there a process by which that statement is approved or not approved?

Claire: Do you mean by our office? Not to my knowledge by anyone.

Sen. Erin Oban: I have no idea how this process worked before this last year. I served on legislative management and those estimates were brought in front of us. I believe legislative management gives the final approval. I don't know if that is a required step.

Claire: I don't know that Legislative Management can change the substance of them. They can approve, I believe. I have not been a part of that conversation. (3.02)

Chairman Davison: In support? Agency?

Jim Silrum, Deputy, Secretary of State.: We are neutral. It seems that the intent of this bill is a dollar amount is to be printed on ballot. Just not certain. The fiscal impact on measure 1 last year, for example was not clear. OMB had a letter but did not reference the entire fiscal impact. It is unknown what the impact. SOS just needs to know what is expected of us. (4.56) Is may impact any number of agencies. What do we do if a fiscal impact can't be determined? We asked this question when this bill was in the House. Yes, they said it would be a dollar figure. I could print some recent fiscal impact statement for you, if that helps.

Chairman Davison: That would be helpful. (5.57) Three examples would be great. Do you have thought about how wording could be changed to help identify what you are to do.

Jim: No, I do not.

Chairman Davison: I read the bill that it would be up to SOS to decide.

Jim: Sometimes that's nice. I support the idea of transparency for the voter. If you want to get the information now, you have to go to our website. (8.06)

Sen. Erin Oban: It does not specify that it was a dollar amount or a statement. That is left up to SOS. Repeatedly, I have heard the SOS be frustrated at people misinterpreting what his authority is, etc. (9.04) I could see this happening again. Do you agree? Could you be criticized at taking liberty?

Jim: It goes with the territory. We just make sure the initiated have enough signature and that stuff. It is inevitable, that when an initiated measure comes up, we get accused of saying how can you be in support of this. We are just putting it on the ballot. We will be accused regardless of whether it is specified in Code or not. Someone will take liberties and say we are not doing the job. (10.13)

Chairman Davison: Any in opposition? We will close this hearing. Discussion.

Sen. Erin Oban: Dealing with fiscal impacts was a mess on Legislative Management Committee. There have been frustrations expressed this session about fiscal notes that have been attached that they feel are trying to sway bills in one direction. We had heated discussion during the interim, when discussing the impacts of recreational marijuana. There were additions to fiscal statements from agencies felt they should do something if this passed. They were not directed to do it in the measure. Are we using liberty in this because we have certain feelings about the issue? Or are we printing exactly what the impacts would be as instructed by the measure. (11.53) The license plate measure was heated. Did it mean just the plate or also the registration of the vehicle. That was not resolved to please everybody on the committee. (12.18) I am hesitant to support this now.

Sen. Kristin Roers: I agree with Sen. Erin Oban. You have heard the term, 'death by fiscal note', a lot this session. If printed on the ballot, does this further influence people by this number. We need to fix another problem before we try and do this. (13.21)

Discussion done (13.40)

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB1035
3/21/2019
#34100

- Subcommittee
 Conference Committee

Committee Clerk: Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to initiated measures and election ballots.

Minutes:

Chairman Davison: Look at HB1035.

Sen. Erin Oban: This was brought forward to print the fiscal impacts through our current process onto the ballot. This was for initiated measure, referred measure and constitutional amendment. If you sit in on the process of how a fiscal is put together in legislative management. I support this in the study, but now I don't. (.56)

Sen. Erin Oban: I move a DO NOT PASS on HB1035. **Vice Chair Meyer:** I second.

Sen. Kristin Roers: My challenge is I like the theory but I doubt the process. Is there a give and take in the fiscal note? Or do we say you are outside your scope.

Sen. Erin Oban: There was a give and take in the discussion. But in the end it was up or down vote. (2.50) There was enough support in legislative management to leave the fiscal as how it was prepared. People said they agreed with me after the meeting was over, but they did not want to take on the battle. (3.18) This stuff is not black and white. For transparency, I support it. I just don't think the fiscal notes are always very transparent.

Chairman Davison: If you don't agree with something, you can say a higher number.

Sen. Kristin Roers: We need to fix the fiscal note process first. (4.55)

Chairman Davison: We have a do not pass on the table. Roll: YES --5 NO -- 2 -0-a.b.
The DO NOT PASSED, passed. **Sen. Erin Oban will carry the bill.**

3-21-19
Date:
Call Vote #: /

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1035**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description:

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerrefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Oban Seconded By Sen. Meyer

Total (Yes) 5 No 2

Absent -0-

Floor Assignment Sen-Oban

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

REPORT OF STANDING COMMITTEE

HB 1035: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
HB 1035 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1035

It was moved by Mr. Hale, seconded by Mr. Swanson, that the resolution draft to require the Legislative Council to draft measures requested by sponsoring committees be approved and recommended to the Legislative Management.

Ms. Chaffee said she would like sponsoring committees to have the option of using the Legislative Council's drafting services rather than being required to use them.

Mr. Bogar said he wonders what the amended resolution draft would accomplish because sponsoring committees already have this option.

Mr. Jaeger said he agrees with Mr. Bogar, but the public may not know about this option. However, he said, he is concerned about amending the constitution to address this issue.

After this discussion, the motion was withdrawn.

It was moved by Ms. Chaffee, seconded by Mr. Archuleta, and carried on a roll call vote that the Legislative Council staff be requested to amend the resolution by removing "as drafted by the legislative council" on line 20 of page 1, changing "shall" to "may" on line 2 of page 2, and changing "drafting committee" to "sponsoring committee" on the same line. Citizen Member Neumann; Senators Hogue, Lee, and Oban; Representatives Kasper, Louser, and Steiner; and Citizen Members Archuleta, Bogar, Chaffee, Hale, Hanebutt, Jaeger, McDonald, Meier, Pulvermacher, Sickler, and Swanson voted "aye." No negative votes were cast.

Bill Drafts Regarding Fiscal Impact Notes for Initiated and Referred Measures

Chairman Neumann called on Mr. Hale to present bill drafts [19.0055.01000] and [19.0058.01000] regarding fiscal impact notes for initiated and referred measures. Mr. Hale presented an alternative bill draft ([Appendix B](#)) to [19.0058.01000] which he prepared. He said the alternative bill draft would repeal North Dakota Century Code Section 16.1-01-17, which requires the Legislative Council to coordinate the development of fiscal impact notes for initiated measures. He said fiscal impact notes only are estimates and should be developed by experts hired by proponents and opponents of initiated measures to provide information to voters.

Representative Kasper said the Appropriations Committee and the Legislative Council are the only experts when it comes to a proposal that affects spending and budgeting.

Mr. Hale said the Legislative Council and Legislative Management cannot determine a fiscal impact for most initiated measures, but, when they do, the estimate is given the imprimatur of being official. He said fiscal impact notes prepared by North Dakota universities should have the same credibility as estimates coordinated by the Legislative Management.

Chairman Neumann requested the Legislative Council staff to present information on fiscal notes for initiated measures prepared since Section 16.1-01-17 was enacted. The Legislative Council staff said actual fiscal impacts could not be determined for most initiated measures approved by voters. She said the estimated fiscal impact of a 2008 initiated measure that established a tobacco prevention and control advisory committee and fund was \$13.8 million, and the actual cost was calculated after the measure had been in effect for a year to be \$14.1 million.

Resolution Draft and Bill Draft Regarding Out-of-State Contributions To Measure Committees and Nonresident Petition Circulators

Chairman Neumann called on Mr. Hale to present a resolution draft [19.3008.01000] regarding nonresident petition circulators and a bill draft [19.0059.01000] regarding reporting requirements for contributions to measure committees from out-of-state contributors. Mr. Hale said the bill draft was intended to remove language requiring special reporting for out-of-state contributions which likely would be struck down by a court as unconstitutional. He said out-of-state contributions should be subject to the same rules as in-state contributions. He said North Dakota should allow nonresident petition circulators because it is hard to find residents who can take time off from work to circulate petitions. He said the nonresident petition circulators would have to agree to be subject to the jurisdiction of North Dakota courts.

Senator Oban said in-state and out-of-state contributions should be treated the same.

Mr. Jaeger said the Eighth Circuit Court of Appeals has upheld the requirement that petition circulators be residents, and he is concerned about nonresidents who make a living circulating petitions.

ARTICLE III POWERS RESERVED TO THE PEOPLE

Section 1. While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

Section 2. A petition to initiate or to refer a measure must be presented to the secretary of state for approval as to form. A request for approval must be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

Section 3. The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post-office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

Section 4. The petition may be submitted to the secretary of state if signed by electors equal in number to two percent of the resident population of the state at the last federal decennial census.

Section 5. An initiative petition shall be submitted not less than one hundred twenty days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Section 6. The secretary of state shall pass upon each petition, and if the secretary of state finds it insufficient, the secretary of state shall notify the "committee for the petitioners" and allow twenty days for correction. All decisions of the secretary of state in regard to any petition are subject to review by the supreme court. But if the sufficiency of the petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate the measure if it is at the election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof is upon the party attacking it and the

proceedings must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon.

Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. A proceeding to review a decision of the secretary of state must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon. If the decision of the secretary of state is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

Section 8. If a majority of votes cast upon an initiated or a referred measure are affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are approved, the one receiving the highest number of affirmative votes shall be law. A measure approved by the electors may not be repealed or amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

Section 9. A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.

Section 10. Any elected official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county, or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

3

CHAPTER 16.1-08.1
CAMPAIGN CONTRIBUTION STATEMENTS

HB 1035/1036/1037

1-31-19

16.1-08.1-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Affiliate" means an organization that controls, is controlled by, or is under common control with another organization. For purposes of this definition, control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if an organization, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing fifty percent or more of the voting securities of any other organization.
2. "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.
3. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
 - a. An individual holding public office;
 - b. An individual who has publicly declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
 - c. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
 - d. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
 - e. An individual who has, in any manner, solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.
4. "Conduit" means a person that is not a political party, political committee, or candidate and which receives a contribution of money and transfers the contribution to a candidate, political party, or political committee when the contribution is designated specifically for the candidate, political party, or political committee and the person has no discretion as to the recipient and the amount transferred. The term includes a transactional intermediary, including a credit card company or a money transfer service that pays or transfers money to a candidate on behalf of another person.
5. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, 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. The term 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. The term 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 including a conduit. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" 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 or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
 - d. Money or anything of value received for anything other than a political purpose.
 - e. Products or services for which the actual cost or fair market value are reimbursed by a payment of money.
 - f. An independent expenditure.
 - g. The value of advertising paid by a political party, multicandidate political committee, or caucus which is in support of a candidate.
 - h. In-kind contributions from a candidate to the candidate's campaign.
6. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations. However, if a political committee, the only purpose of which is accepting contributions and making expenditures for a political purpose, incorporates for liability purposes only, the committee is not considered a corporation for the purposes of this chapter.
7. "Expenditure" means:
- a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for a political purpose or for the purpose of influencing the passage or defeat of a measure.
 - b. A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure.
 - c. The transfer of funds by a political committee to another political committee.
 - d. An independent expenditure.
8. "Expenditure categories" means the categories into which expenditures must be grouped for reports under this chapter. The expenditure categories are:
- a. Advertising;
 - b. Campaign loan repayment;
 - c. Operations;
 - d. Travel; and
 - e. Miscellaneous.
9. "Independent expenditure" means an expenditure 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, committee, or political party.
10. "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.
11. "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
12. "Personal benefit" means a benefit to the candidate or another person which is not for a political purpose or related to a candidate's responsibilities as a public officeholder, and any other benefit that would convert a contribution to personal income.
13. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes:
- a. A political action committee not connected to another organization and free to solicit funds from the general public, or derived from a corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or an association that solicits or receives contributions from its employees or members or makes expenditures for political purposes on behalf of its employees or members;
 - b. A candidate committee established to support an individual candidate seeking public office which solicits or receives contributions for political purposes;

- c. A political organization registered with the federal election commission, which solicits or receives contributions or makes expenditures for political purposes;
 - d. A multicandidate political committee, including a caucus, established to support multiple groups or slates of candidates seeking public office, which solicits or receives contributions for political purposes; and
 - e. A measure committee, including an initiative or referendum sponsoring committee at any stage of its organization, which solicits or receives contributions or makes expenditures for the purpose of aiding or opposing a measure sought to be voted upon by the voters of the state, including any activities undertaken for the purpose of drafting an initiative or referendum petition, seeking approval of the secretary of state for the circulation of a petition, or seeking approval of the submitted petitions.
14. "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.
15. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a public office or any position taken in any bona fide news story, commentary, or editorial.
16. "Public office" means every office to which an individual can be elected by vote of the people under the laws of this state.
17. "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.

16.1-08.1-02. Contributions statement required of candidate committees, candidates, and candidates for legislative office.

Repealed by S.L. 2017, ch. 155, §13.

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

1. State political parties shall establish separate and segregated accounts for the management of state nominating conventions. All revenue obtained and expenditures made for the planning and running of a state convention must be accounted for in these accounts.
2. A postconvention statement must be filed with the secretary of state sixty days after the close of the state nominating convention. The reporting period for the postconvention statement begins on the first day of January of the reporting year and ends thirty days after the close of the state nominating convention.
3. A year-end statement covering the entire calendar year must be filed with the secretary of state before February first of the following year even if no convention revenue was received or expenditures made within the calendar year.
4. The statement filed according to this section must show the following:
 - a. The balance of the filer's convention accounts at the start and close of the reporting period;
 - b. The total of all revenue received and expenditures made of two hundred dollars, or less;
 - c. The total of all revenue received and expenditures made in excess of two hundred dollars;

- d. For each aggregated revenue received from a person in excess of two hundred dollars:
- (1) The name of each person;
 - (2) The mailing address of each person;
 - (3) The date of the most recent receipt of revenue from each person; and
 - (4) The purpose or purposes for which the aggregated revenue total was received from each person;
- e. For each aggregated expenditure made to a person in excess of two hundred dollars:
- (1) The name of each person or entity;
 - (2) The mailing address of each person or entity;
 - (3) The date of the most recent expense made to each person or entity; and
 - (4) The purpose or purposes for which the aggregated expenditure total was disbursed to each person or entity; and
- f. For each aggregated revenue from an individual which totals five thousand dollars or more during the reporting period, the occupation, employer, and principal place of business of the individual must be disclosed.
5. If a net gain from the convention is transferred to the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as a contribution in the statements required by section 16.1-08.1-02.4.
6. If a net loss from the convention is covered by a transfer from the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as an expenditure in the statements required by section 16.1-08.1-02.4.

16.1-08.1-02.2. State political party building fund statement required.

A state political party or nonprofit entity affiliated with or under the control of a state political party which receives a donation for purchasing, maintaining, or renovating a building shall file a statement with the secretary of state before February first of each calendar year. Any income or financial gain generated from a building purchased, maintained, or renovated from donations must be deposited in the building fund and must be disclosed when the political party or nonprofit entity files the statement required under this section. Money in the fund may be used only 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 including the purchase of fixtures for the building. The statement may be submitted for filing beginning on January first and must include:

1. The balance of the building fund on January first;
2. The name and mailing address of each donor;
3. The amount of each donation;
4. The date each donation was received;
5. The name and mailing address of each recipient of an expenditure;
6. The amount of each expenditure;
7. The date each expenditure was made; and
8. The balance of the fund on December thirty-first.

16.1-08.1-02.3. Pre-election, supplemental, and year-end campaign disclosure statement requirements for candidates, candidate committees, multicandidate committees, and nonstatewide political parties.

1. Prior to the thirty-first day before a primary, general, or special election, a candidate or candidate committee formed on behalf of the candidate, a multicandidate political committee, or a political party other than a statewide political party soliciting or accepting contributions shall file a campaign disclosure statement that includes all contributions received from January first through the fortieth day before the election. A candidate whose name is not on the ballot and who is not seeking election through write-in votes, the candidate's candidate committee, and a political party that has not endorsed or nominated any candidate in the election is not required to file a statement

- under this subsection. The statement may be submitted for filing beginning on the thirty-ninth day before the election. The statement must include:
- a. For each aggregated contribution from a contributor which totals in excess of two hundred dollars received during the reporting period:
 - (1) The name and mailing address of the contributor;
 - (2) The total amount of the contribution; and
 - (3) The date the last contributed amount was received;
 - b. The total of all aggregated contributions from contributors which total in excess of two hundred dollars during the reporting period;
 - c. The total of all contributions received from contributors that contributed two hundred dollars or less each during the reporting period; and
 - d. For a statewide candidate, a candidate committee formed on behalf of a statewide candidate, and a statewide multicandidate committee, the balance of the campaign fund on the fortieth day before the election and the balance of the campaign fund on January first.
2. Beginning on the thirty-ninth day before the election through the day before the election, a person that files a statement under subsection 1 must file a supplemental statement within forty-eight hours of the start of the day following the receipt of a contribution or aggregate contribution from a contributor which is in excess of five hundred dollars. The statement must include:
 - a. The name and mailing address of the contributor;
 - b. The total amount of the contribution received during the reporting period; and
 - c. The date the last contributed amount was received.
 3. Prior to February first, a candidate or candidate committee, a multicandidate political committee, or a nonstatewide political party soliciting or accepting contributions shall file a campaign disclosure statement that includes all contributions received and expenditures, by expenditure category, made from January first through December thirty-first of the previous year. The statement may be submitted for filing beginning on January first. The statement must include:
 - a. For a statewide candidate, a candidate committee formed on behalf of a statewide candidate, and a statewide multicandidate committee, the balance of the campaign fund on January first and on December thirty-first;
 - b. For each aggregated contribution from a contributor which totals in excess of two hundred dollars received during the reporting period:
 - (1) The name and mailing address of the contributor;
 - (2) The total amount of the contribution; and
 - (3) The date the last contributed amount was received;
 - c. The total of all aggregated contributions from contributors which total in excess of two hundred dollars during the reporting period;
 - d. The total of all contributions received from contributors that contributed two hundred dollars or less each during the reporting period; and
 - e. The total of all other expenditures made during the previous year, separated into expenditure categories.
 4. A person required to file a statement under this section, other than a candidate for judicial office, county office, or city office, or a candidate committee for a candidate exempted under this subsection, shall report each aggregated contribution from a contributor which totals five thousand dollars or more during the reporting period. For these contributions from individuals, the statement must include the contributor's occupation, employer, and the employer's principal place of business.
 5. A candidate for city office in a city with a population under five thousand and a candidate committee for the candidate are exempt from this section.
 6. A candidate for county office and a candidate committee for a candidate for county office shall file statements under this chapter with the county auditor. A candidate for city office who is required to file a statement under this chapter and a candidate committee for such a candidate shall file statements with the city auditor. Any other

person required to file a statement under this section shall file the statement with the secretary of state.

7. The filing officer shall assess and collect fees for any reports filed after the filing deadline.
8. To ensure accurate reporting and avoid commingling of campaign and personal funds, candidates shall use dedicated campaign accounts that are separate from any personal accounts.

16.1-08.1-02.4. Pre-election, supplemental, and year-end campaign disclosure statement requirements for statewide political parties and certain political committees.

1. Prior to the thirty-first day before a primary, general, or special election, a statewide political party or a political committee not required to file statements under section 16.1-08.1-02.3 which is soliciting or accepting contributions shall file a campaign disclosure statement that includes all contributions received and expenditures made from January first through the fortieth day before the election. A political party that has not endorsed or nominated a candidate in an election is not required to file a statement under this subsection. A statement required to be filed under this subsection may be submitted for filing beginning on the thirty-ninth day before the election. The statement must include:
 - a. For each aggregated contribution from a contributor which totals in excess of two hundred dollars received during the reporting period:
 - (1) The name and mailing address of the contributor;
 - (2) The total amount of the contribution; and
 - (3) The date the last contributed amount was received;
 - b. The total of all aggregated contributions from contributors which total in excess of two hundred dollars during the reporting period;
 - c. The total of all contributions received from contributors that contributed two hundred dollars or less each during the reporting period;
 - d. For each recipient of an expenditure from campaign funds in excess of two hundred dollars in the aggregate:
 - (1) The name and mailing address of the recipient;
 - (2) The total amount of the expenditure made to the recipient; and
 - (3) The date the last expended amount was made to the recipient;
 - e. The aggregate total of all expenditures from campaign funds in excess of two hundred dollars;
 - f. The aggregate total of all expenditures from campaign funds of two hundred dollars or less; and
 - g. The balance of the campaign fund on the fortieth day before the election and balance of the campaign fund on January first.
2. Beginning on the thirty-ninth day before the election through the day before the election, a person that files a statement under subsection 1 must file a supplemental statement within forty-eight hours of the start of the day following the receipt of a contribution or aggregate contribution from a contributor which is in excess of five hundred dollars. The statement must include:
 - a. The name and mailing address of the contributor;
 - b. The total amount of the contribution received during the reporting period; and
 - c. The date the last contributed amount was received.
3. Prior to February first, a statewide political party or a political committee that is not required to file a statement under section 16.1-08.1-2.3 shall file a campaign disclosure statement that includes all contributions received and expenditures made from January first through December thirty-first of the previous year. The statement may be submitted for filing beginning on January first. The statement must include:
 - a. For each aggregated contribution from a contributor which totals in excess of two hundred dollars received during the reporting period:
 - (1) The name and mailing address of the contributor;
 - (2) The total amount of the contribution; and

- (3) The date the last contributed amount was received;
 - b. The total of all aggregated contributions from contributors which total in excess of two hundred dollars during the reporting period;
 - c. The total of all contributions received from contributors that contributed two hundred dollars or less each during the reporting period;
 - d. For each recipient of an expenditure from campaign funds in excess of two hundred dollars in the aggregate:
 - (1) The name and mailing address of the recipient;
 - (2) The total amount of the expenditure made to the recipient; and
 - (3) The date the last expended amount was made to the recipient;
 - e. The aggregate total of all expenditures from campaign funds in excess of two hundred dollars;
 - f. The aggregate total of all expenditures from campaign funds of two hundred dollars or less; and
 - g. The balance of the campaign fund on January first and December thirty-first.
4. A person required to file a statement under this section shall disclose each aggregated contribution from a contributor which totals five thousand dollars or more during the reporting period. For these contributions from individuals, the statement must include the contributor's occupation, employer, and the employer's principal place of business.
5. Statements under this section must be filed with the secretary of state.
6. The secretary of state shall assess and collect fees for any reports filed after the filing deadline.

16.1-08.1-03. Contributions statement required of political parties.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.1. Special requirements for statements required of persons engaged in activities regarding ballot measures.

- 1. For each reportable contribution and expenditure under section 16.1-08.1-02.4, the threshold for reporting is one hundred dollars for any person engaged in activities described in subdivision e of subsection 13 of section 16.1-08.1-01.
- 2. For contributions received from an out-of-state contributor, a person engaged in activities described in subdivision e of subsection 13 of section 16.1-08.1-01 shall include the following information regarding each subcontributor that has stated a contribution is for the express purpose of furthering the passage or defeat of a ballot measure in the statements required under section 16.1-08.1-02.4:
 - a. A designation as to whether any person contributed in excess of one hundred dollars of the total contribution;
 - b. The name and mailing address of each subcontributor that contributed in excess of one hundred dollars of the total contribution;
 - c. The contribution amounts of each disclosed subcontributor; and
 - d. The occupation, employer, and address for the employer's principal place of business of each disclosed subcontributor.
- 3. An initiative and referendum sponsoring committee also shall file a disclosure statement by the date the secretary of state approves the petition for circulation, and shall file an additional statement on the date the petitions containing the required number of signatures are submitted to the secretary of state for review. The statements required under this subsection must be in the same form as the year-end statements under section 16.1-08.1-02.4.
- 4. A sponsoring committee shall file a statement regarding its intent to compensate circulators before paying for petitions to be circulated.

16.1-08.1-03.2. Political committee and candidate registration.

- 1. A political committee as defined in section 16.1-08.1-01 shall register its name and contact information, its agent's name and contact information, and a designation as to

whether the committee is incorporated solely for the purpose of liability protection, with the secretary of state. A candidate who does not have a candidate committee shall register the candidate's name and contact information and, if the candidate has an agent, the agent's name and contact information with the secretary of state. The registration required under this section for a candidate or political committee that has not previously registered with the secretary of state must be submitted within fifteen business days of the receipt of any contribution or expenditure made.

2. A candidate or political committee required to be registered under this section must register with the secretary of state each year during which the candidate holds public office or during which the political committee receives contributions, makes expenditures for political purposes, or has a balance in the campaign account. An individual who no longer holds public office or an individual who no longer seeks public office must register with the secretary of state each year in which contributions are received, expenditures are made for political purposes, or has a balance in the campaign account.
3. A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office, a political party, or political committee in this state is not required to register as a political committee according to this section if the political committee reports according to section 16.1-08.1-03.7.
4. Registration by a political committee under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

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

1. A corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association may establish, administer, and solicit contributions to a separate and segregated fund to be utilized for political purposes by the corporation, cooperative corporation, limited liability company, affiliate, subsidiary, 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, board member, 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 not an employee, a stockholder, a patron, a board member or a member of the corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association maintaining the political action committee, except a corporation may accept a contribution from an employee, a stockholder, a patron, a board member, or a member of an affiliate or a subsidiary of the corporation.

- 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, a promise, or an agreement, expressed or implied, to make such expenditure.
- 2. 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 that 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 which it actually was furnished.
- 3. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, affiliate, subsidiary, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association.
- 4. 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.
- 5. 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, affiliate, subsidiary, or association to violate this section or to counsel or consent to any violation. Any person that solicits or knowingly receives any contribution in violation of this section is guilty of a class A misdemeanor.
- 6. 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, affiliate, subsidiary, or association for the amount so contributed.

16.1-08.1-03.4. Person not excused from testifying as to violation - Prosecution or penalty waived upon testifying.

No person may be excused from attending and testifying or producing any books, papers, or other documents before any court upon any investigation, proceeding, or trial for a violation of any of the provisions of this chapter, upon the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or degrade the person. No person may be prosecuted nor subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify or produce evidence, documentary or otherwise, and no testimony so given or produced may be used against the person in any criminal investigation or proceeding.

16.1-08.1-03.5. Corporate contributions and expenditures - Statement required.

- 1. Corporations, cooperative corporations, limited liability companies, affiliates, subsidiaries, 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, affiliate, subsidiary, or association other than a "political purpose" as defined by this chapter. A corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association may not make a contribution for a political purpose.
- 2. A corporation, cooperative corporation, limited liability company, affiliate, subsidiary, 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 building fund.
- 3. A corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association may make an expenditure to a measure committee as described in section 16.1-08.1-01 for the purpose of promoting the passage or defeat of an initiated or referred measure or petition or make an expenditure to any other person that makes

an independent expenditure. A corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association may make an independent expenditure for a political purpose, including political advertising in support of or opposition to a candidate, political committee, or a political party, or for the purpose of promoting passage or defeat of initiated or referred measures or petitions. The corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association shall file a statement disclosing any expenditure made under this subsection with the secretary of state within forty-eight hours after making the expenditure. The statement must include:

- a. The full name of the corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association;
- b. The complete address of the corporation, cooperative corporation, limited liability company, affiliate, subsidiary, or association;
- c. The name of the recipient of the expenditure;
- d. If the expenditure is related to a measure or petition, the title of the measure or petition and whether the expenditure is made in support of or opposition to the measure or petition;
- e. If the 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 expenditure;
- g. The cumulative total amount of expenditures since the beginning of the calendar year which are required to be reported under this subsection;
- h. The telephone number and the printed name and signature of the individual completing the statement, attesting to the statement being true, complete, and correct; and
- i. The date on which the statement was signed.

16.1-08.1-03.6. Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited.

Repealed by S.L. 2001, ch. 202, § 7.

16.1-08.1-03.7. Political committees that organize and register according to federal law that make independent expenditures or disbursements to nonfederal candidates, political parties, and political committees.

A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office or to a political party or political committee in this state shall file a copy of that portion of the committee's federal report detailing the independent expenditure or the disbursement made. The political committee shall file a copy of the committee's federal report with the secretary of state at the time of filing the report with the applicable federal agency. The report must include:

1. The name, mailing address, and treasurer of the political committee;
2. The recipient's name and mailing address; and
3. The date and amount of the independent expenditure or disbursement.

16.1-08.1-03.8. Contributions statement required of multicandidate political committees.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.9. Contribution statements of judicial district candidates or a candidate committee for a judicial district candidate.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.10. Contribution statements of county office candidates or a candidate committee for a county office candidate.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.11. Contribution statements of city office candidates or a candidate committee for a city office candidate in cities with a resident population of five thousand or more as determined by the last federal decennial census.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.12. Contribution statements of incidental committees and other political committees.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.13. Contribution statements required of initiated or referendum petition sponsoring committees - Statement of petition sponsors.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-03.14. Conduit required to provide detailed contribution information to recipient.

A conduit that transfers any contribution to a candidate, political party, or political committee shall provide the recipient of the contribution a detailed statement that lists the name and address of each individual contributor, the amount of each contribution, and the date each contribution was received. The conduit also shall include on the statement the occupation, employer, and principal place of business of each contributor, or the political committee if not already registered according to state or federal law, which contributed five thousand dollars or more in the aggregate during a reporting period applicable to the candidate, political party, or political committee. The conduit shall provide the statement to the candidate, political party, or political committee in a manner to allow the candidate, political party, or political committee to file any statement required to be filed under this chapter.

16.1-08.1-03.15. Contributions from and expenditures by foreign nationals prohibited.

1. A foreign national may not make or offer to make, directly or indirectly, a contribution or expenditure in connection with any election.
2. A candidate, candidate committee, political party, or any other person may not solicit, accept, or receive, directly or indirectly, a contribution from a foreign national.
3. For purposes of this section, unless the context otherwise requires, "foreign national" means a person that is:
 - a. A foreign government;
 - b. A foreign political party;
 - c. A foreign corporation, partnership, association, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country;
 - d. An individual with foreign citizenship; or
 - e. An individual who is not a citizen or national of the United States and is not admitted lawfully to the United States for permanent residence.

16.1-08.1-04. Supplemental statement required on large contributions received after original statement - Filing time.

Repealed by S.L. 2017, ch. 155, §13.

16.1-08.1-04.1. Personal use of contributions prohibited.

A candidate may not use any contribution received by the candidate, the candidate's candidate committee, or a multicandidate political committee to:

1. Give a personal benefit to the candidate or another person;
2. Make a loan to another person;

3. Knowingly pay more than the fair market value for goods or services purchased for the campaign; or
4. Pay a criminal fine or civil penalty.

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, political committee, or other person filing the statement shall pay a fine to the secretary of state equal to 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 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 by candidates or candidate committees for candidates for county or city offices.

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. Filed electronically with the secretary of state and must be within the prescribed time and in the format established by the secretary of state. If the secretary of state does not receive a statement, an electronic 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 ten years from the date of the filing deadline. 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 on the internet.
 2. 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. In reporting a contribution received through a conduit, a candidate, political party, or political committee shall list each reportable contribution identifying the person that submitted the contribution to the conduit and provide the required information regarding the contribution from that person rather than identifying the conduit as the contributor.
 4. Any statement and data filed with the secretary of state must be made available on the internet to the public free of charge within twenty-four hours after filing.

16.1-08.1-06.1. Filing officer to charge and collect fees for late filing.

1. If a statement or report required to be filed according to this chapter is not filed within the prescribed time, the filing officer to whom the report was to be filed is authorized to charge and collect a late fee as follows:
 - a. Within six days after the prescribed time, twenty-five dollars;
 - b. Within eleven days after the prescribed time, fifty dollars; and
 - c. Thereafter, one hundred dollars.
2. A filing officer may require an amendment to be filed for any statement or report that is incorrect or incomplete. The amendment must be filed with the filing officer within ten business days after the amendment has been requested in writing. If an amendment is not filed within the prescribed time, the filing officer is authorized to charge and collect a late fee as follows:
 - a. Within six days after the date the amendment was due, fifty dollars;
 - b. Within eleven days after the date the amendment was due, one hundred dollars; and
 - c. Thereafter, two hundred dollars.
3. The filing officer 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.

16.1-08.1-06.2. Secretary of state to provide instructions and conduct training.

The secretary of state shall provide instructions and conduct training for the purpose of promoting uniform application of campaign finance and disclosure requirements and the uniform filing of statements, registrations, or reports according to this chapter.

16.1-08.1-07. Penalty.

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