

HOUSE BILL NO. 1337

Introduced by

Representatives B. Thoreson, Belter, Keiser

Senators Klein, G. Nelson, Stenehjem

1 A BILL for an Act to amend and reenact sections 16.1-08.1-01 and 16.1-08.1-03.3 of the North
2 Dakota Century Code, relating to definitions with respect to campaign contributions; and to
3 provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 16.1-08.1-01 of the 1999 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **16.1-08.1-01. Definitions.** As used in this chapter, unless the context otherwise
8 requires:

- 9 1. "Association" means any club, association, union, brotherhood, fraternity,
10 organization, or group of any kind of two or more persons, including labor unions,
11 trade associations, professional associations, or governmental associations, which
12 is united for any purpose, business, or object and which assesses any dues,
13 membership fees, or license fees in any amount, or which maintains a treasury
14 fund in any amount. The term does not include corporations, cooperative
15 corporations, limited liability companies, political committees, or political parties.
- 16 2. "Candidate" means an individual who seeks nomination for election or election to
17 public office.
- 18 3. "Contribution" means a gift, subscription, loan, advance, or deposit of money,
19 made for the purpose of influencing the nomination for election, or election, of any
20 person to public office or aiding or opposing the circulation or passage of a
21 statewide initiative or referendum petition or measure. The term also means a
22 contract, promise, or agreement, express or implied, whether or not legally
23 enforceable, to make a contribution for any of the above purposes. The term
24 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. The term includes wages, salaries, or union dues used for a political purpose, to aid or oppose the circulation, passage, or defeat of an initiative or referendum petition or measure, or to support the operations or expenses of a political committee. The term 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 by a candidate for legislative office which is immediately transferred or signed over to a district committee of a political party within thirty days of the candidate receiving the money. The district committee of the political party shall report a transfer of this kind as a contribution according to section 16.1-08.1-03 and shall show the origin of the contribution to the legislative candidate.
- e. Charitable contributions or commercial transactions.
- f. Money spent by a corporation, cooperative corporation, limited liability company, or association to disseminate information not related to a political purpose to its shareholders, employees, or members.

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.

- 1 7. "Person" means an individual, partnership, committee, association, corporation,
2 cooperative corporation, limited liability company, or other organization or group of
3 persons.
4 8. "Political committee" means any committee, club, association, or other group of
5 persons which receives contributions or makes expenditures primarily for political
6 purposes.
7 9. "Political party" means any association, committee, or organization which
8 nominates a candidate for election to any office which may be filled by a vote of the
9 electors of this state or any of its political subdivisions and whose name appears
10 on the election ballot as the candidate of such association, committee, or
11 organization.
12 10. "Political purpose" means any activity undertaken in support of or in opposition to
13 the election or nomination of a candidate to public office whether the activity is
14 undertaken by a candidate, a political committee, a political party, or any person.
15 The term does not include activities undertaken in the performance of a duty of a
16 state office.
17 11. "Public office" means every statewide or legislative office to which persons can be
18 elected by vote of the people under the laws of this state.
19 12. "Union" means an association of employees which has as its primary purpose the
20 promotion of the economic interests of its members as wage earners. The term
21 means a labor organization freely chosen by the majority of the employees in a
22 bargaining group to represent the employees in contract negotiations and
23 administration and handling of grievances.

24 **SECTION 2. AMENDMENT.** Section 16.1-08.1-03.3 of the 1999 Supplement to the
25 North Dakota Century Code is amended and reenacted as follows:

26 **16.1-08.1-03.3. Campaign contributions by corporations, cooperative**
27 **corporations, limited liability companies, and associations prohibited - Violation -**
28 **Penalty.**

- 29 1. A corporation, cooperative corporation, limited liability company, or association
30 may not make a direct contribution:
31 a. To aid any political party, political committee, or organization.

- 1 b. To aid any corporation, limited liability company, or association organized or
- 2 maintained for political purposes.
- 3 c. To aid any candidate for political office or for nomination to political office.
- 4 d. For any political purpose or the reimbursement or indemnification of any
- 5 person for money or property so used.
- 6 e. For the influencing of any measure before the legislative assembly, except in
- 7 accordance with chapter 54-05.1.
- 8 2. This section does not prohibit the establishment, administration, and solicitation of
- 9 contributions to a separate and segregated fund to be utilized for political purposes
- 10 by a corporation, cooperative corporation, limited liability company, or association.
- 11 It is unlawful for:
- 12 a. The person or persons controlling the fund to make contributions or
- 13 expenditures utilizing money or anything of value secured by physical force,
- 14 job discrimination, financial reprisals, or the threat of them; or utilize money
- 15 from dues, fees, treasury funds, or other money required as a condition of
- 16 membership in an association, or as a condition of employment; or utilize
- 17 money obtained in any commercial transaction. Moneys from fees, dues,
- 18 treasury funds, or money obtained in a commercial transaction may, however,
- 19 be used to pay costs of administration of the fund.
- 20 b. Any person soliciting an employee, stockholder, patron, or member for a
- 21 contribution to the fund to fail to inform the employee or member of the
- 22 political purposes of the fund at the time of the solicitation or of the general
- 23 political philosophy intended to be advanced through committee activities.
- 24 c. Any person soliciting an employee or member for a contribution to the fund to
- 25 fail to inform the employee or member at the time of the solicitation of the right
- 26 to refuse to contribute without any reprisal.
- 27 d. Any contribution to be accepted without keeping an accurate record of the
- 28 contributor and amount contributed and of amounts expended for political
- 29 purposes.

e. Any contribution to be accepted from any person who is not an employee, stockholder, patron, or member of the corporation, cooperative corporation, limited liability company, or association maintaining the political committee.

f. Any expenditure, except a contract, promise, or agreement, express or implied, to make any expenditure, made for political purposes to be reported under this section before control of the expenditure has been released by the political committee.

3. An individual who does not authorize a contribution to a segregated fund under this section may not have the individual's dues or membership fees raised as a result of the declined contribution.

4. Before withholding or diverting a portion of an employee's or member's dues, wages, or salary for a contribution to a segregated fund, an association shall obtain a voluntary written authorization from the employee or member on a form prescribed by the secretary of state. Unless revoked upon thirty days written notice by the employee or member, the authorization is valid for one calendar year. The employee or member shall include on the authorization form the total amount withheld from the employee's or member's dues, wages, or salary as a contribution to the segregated fund. The secretary of state shall ensure that the authorization form includes a statement that includes the following information:

a. The authorization form is required by law;

b. Contributions may not be obtained by use of coercion or physical force, contributions may not be a condition of employment or membership, and contributions may not be secured by threats of job discrimination or financial reprisals; and

c. The employee is entitled to a copy of the signed authorization form.

5. Upon request of the secretary of state, an association shall provide verification that an employee or member has authorized the withholding of dues, wages, or salary for a contribution to a segregated fund. The secretary of state, in cooperation with the labor commissioner, shall prepare and require the posting of notices, in a conspicuous manner in each workplace in the state, which summarize the rights of employees under this section. Upon receipt of a complaint, the secretary of state

shall investigate an alleged violation of subsection 4. A person making or receiving a contribution or expenditure in violation of subsection 4 is subject to a civil penalty of five hundred dollars or three times the amount of the contribution or expenditure in violation of subsection 4, whichever is greater.

6. 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 two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A 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.

~~4.~~ 7. A person may not make a payment of that person's money or of another person's money to any other person for a political purpose in any name other than that of the person who supplies the money and a person may not knowingly receive the payment nor enter nor cause the payment to be entered in that person's account or record in any name other than that of the person by whom it actually was furnished.

~~5.~~ 8. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, or association.

~~6.~~ 9. 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.

- 1 ~~7.~~ 10. It is a class A misdemeanor for an officer, director, stockholder, manager,
2 governor, member, attorney, agent, or representative of any corporation,
3 cooperative corporation, limited liability company, or association to violate this
4 section or to counsel or consent to any violation. Any person who solicits or
5 knowingly receives any contribution in violation of this section is guilty of a class A
6 misdemeanor.
- 7 ~~8.~~ 11. Any officer, director, stockholder, manager, governor, member, attorney, agent, or
8 representative who makes, counsels, or consents to the making of a contribution in
9 violation of this section is liable to the company, corporation, limited liability
10 company, or association for the amount so contributed.