

Sixty-second  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2073

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 | A BILL for an Act to amend and reenact [section 16.1-08.1-01](#), subsection 1 of section  
2 | 16.1-08.1-03.3, section 16.1-08.1-03.5, and subsection 2 of section 16.1-08.1-03.8 of the North  
3 | Dakota Century Code, relating to [the definition of direct expenditures and](#) campaign contribution  
4 | statements.

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

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

8 | **16.1-08.1-01. Definitions.**

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

- 10 | 1. "Association" means any club, association, union, brotherhood, fraternity, organization,  
11 | or group of any kind of two or more persons, including labor unions, trade  
12 | associations, professional associations, or governmental associations, which is united  
13 | for any purpose, business, or object and which assesses any dues, membership fees,  
14 | or license fees in any amount, or which maintains a treasury fund in any amount. The  
15 | term does not include corporations, cooperative corporations, limited liability  
16 | companies, political committees, or political parties.
- 17 | 2. "Candidate" means an individual who seeks nomination for election or election to  
18 | public office, and includes:
- 19 | a. A person holding public office;
- 20 | b. A person who has publicly declared that person's candidacy for nomination for  
21 | election or election to public office or has filed or accepted a nomination for public  
22 | office;
- 23 | c. A person who has formed a campaign or other committee for that person's  
24 | candidacy for public office;

- 1 d. A person who has circulated a nominating petition to have that person's name  
2 placed on the ballot; and
- 3 e. A person who has, in any manner, solicited or received a contribution for that  
4 person's candidacy for public office, whether before or after the election for that  
5 office.
- 6 3. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription,  
7 loan, advance, deposit of money, or anything of value, made for the purpose of  
8 influencing the nomination for election, or election, of any person to public office or  
9 aiding or opposing the circulation or passage of a statewide initiative or referendum  
10 petition or measure. The term also means a contract, promise, or agreement, express  
11 or implied, whether or not legally enforceable, to make a contribution for any of the  
12 above purposes. The term includes funds received by a candidate for public office or a  
13 political party or committee which are transferred or signed over to that candidate,  
14 party, or committee from another candidate, party, or political committee or other  
15 source. The term "anything of value" includes any good or service of more than a  
16 nominal value. The term "nominal value" means the cost, price, or worth of the good or  
17 service is trivial, token, or of no appreciable value. The term "contribution" does not  
18 include:
- 19 a. A loan of money from a bank or other lending institution made in the regular  
20 course of business.
- 21 b. Time spent by volunteer campaign or political party workers.
- 22 c. Money spent by a candidate on the candidate's own behalf.
- 23 d. Money or anything of value received for commercial transactions, including rents,  
24 advertising, or sponsorships made as a part of a fair market value bargained-for  
25 exchange.
- 26 e. Money or anything of value received by a candidate in that person's personal  
27 capacity, including pursuant to a contract or agreement made for personal or  
28 private employment purposes, and not received for a political purpose or to  
29 influence the performance of that person's official duty.
- 30 f. Contributions of products or services for which the actual cost or fair market  
31 value are reimbursed by a payment of money.

- 1       4. "Cooperative corporations", "corporations", and "limited liability companies" are as  
2       defined in this code, and for purposes of this chapter "corporations" includes nonprofit  
3       corporations.
- 4       5. "Direct expenditure" means an expenditure made by a corporation, cooperative  
5       corporation, limited liability company, or association for the specific purpose of  
6       promoting passage or defeat of an initiated or referred measure without the express or  
7       implied consent, authorization, or cooperation of, and not in concert with or at the  
8       request or suggestion of a measure committee.
- 9       6. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment,  
10      distribution, disbursement, outlay, or deposit of money or anything of value, except a  
11      loan of money from a bank or other lending institution made in the regular course of  
12      business, made for the direct purpose of influencing the passage or defeat of a  
13      measure or the nomination for election, or election, of any individual to office. The term  
14      also means a contract, promise, or agreement, express or implied, whether or not  
15      legally enforceable, to make any expenditure and includes the transfer of funds by a  
16      political committee to another political committee.
- 17      ~~6.7.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or  
18      membership or maintains similar financial rights in a cooperative corporation.
- 19      ~~7.8.~~ "Person" means an individual, partnership, political committee, association,  
20      corporation, cooperative corporation, limited liability company, or other organization or  
21      group of persons.
- 22      ~~8.9.~~ "Political committee" means any committee, club, association, or other group of  
23      persons which receives contributions or makes expenditures for political purposes and  
24      includes the following:
- 25      a. A political action committee, derived from a corporation, cooperative corporation,  
26      limited liability company, or an association that is prohibited from making direct  
27      contributions for political purposes under section 16.1-08.1-03.3, and which  
28      solicits or receives contributions or makes expenditures for political purposes;
- 29      b. A candidate committee, established to support an individual candidate seeking  
30      statewide office, that solicits or receives contributions for political purposes;

- 1 c. An organization governed by section 527 of the Internal Revenue Code  
2 [26 U.S.C. 527], which solicits or receives contributions or makes expenditures  
3 for political purposes;  
4 d. A multicandidate political committee, established to support multiple groups or  
5 slates of candidates seeking public office, that solicits or receives contributions  
6 for political purposes; and  
7 e. A measure committee that solicits or receives contributions for the purpose of  
8 aiding or opposing a measure to be voted upon by the voters of the state.

9 ~~9.10.~~ "Political party" means any association, committee, or organization which nominates a  
10 candidate for election to any office which may be filled by a vote of the electors of this  
11 state or any of its political subdivisions and whose name appears on the election ballot  
12 as the candidate of such association, committee, or organization.

13 ~~10.11.~~ "Political purpose" means any activity undertaken in support of or in opposition to the  
14 election or nomination of a candidate to public office and includes using "vote for",  
15 "oppose", or any similar support or opposition language in any advertisement whether  
16 the activity is undertaken by a candidate, a political committee, a political party, or any  
17 person. In the period thirty days before a primary election and sixty days before a  
18 special or general election, "political purpose" also means any activity in which a  
19 candidate's name, office, district, or any term meaning the same as "incumbent" or  
20 "challenger" is used in support of or in opposition to the election or nomination of a  
21 candidate to public office. The term does not include activities undertaken in the  
22 performance of a duty of a state office or any position taken in any bona fide news  
23 story, commentary, or editorial.

24 ~~11.12.~~ "Public office" means every office to which persons can be elected by vote of the  
25 people under the laws of this state.

26 **SECTION 2. AMENDMENT.** Subsection 1 of section 16.1-08.1-03.3 of the North Dakota  
27 Century Code is amended and reenacted as follows:

- 28 1. A corporation, cooperative corporation, limited liability company, or association may  
29 not make a direct contribution:

- 1 a. To aid any political party, political committee, or organization except that a direct  
2 contribution may be made to a measure committee as provided in section  
3 16.1-08.1-03.5.
- 4 b. To aid any corporation, limited liability company, or association organized or  
5 maintained for political purposes as defined in this chapter.
- 6 c. To aid any candidate for public office or for nomination to public office.
- 7 d. For any political purpose or the reimbursement or indemnification of any person  
8 for money or property so used.
- 9 e. For the influencing of any measure before the legislative assembly, except in  
10 accordance with chapter 54-05.1.

11 **SECTION 3. AMENDMENT.** Section 16.1-08.1-03.5 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **16.1-08.1-03.5. DirectAllowable corporate contributions and expenditures - Passage**  
14 **or defeat of a measure or state political party building funds-- Report required.**

- 15 1. ~~This chapter does not prohibit the exercise by corporations~~Corporations, cooperative  
16 corporations, limited liability companies, and associations ~~of the right to~~may make  
17 expenditures and contributions to a measure committee, as described in section  
18 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred  
19 measures, ~~or~~ Corporations, cooperative corporations, limited liability companies, and  
20 associations may make expenditures and contributions for promoting any general  
21 political philosophy or belief deemed in the best interest of the employees,  
22 stockholders, patrons, or members of the corporation, cooperative corporation, limited  
23 liability company, or association other than a "political purpose" as defined by this  
24 chapter. ~~Any corporation, cooperative corporation, limited liability company, or~~  
25 ~~association that receives contributions pursuant to section 16.1-08.1-03.1 or spends~~  
26 ~~money for the purpose of promoting passage or defeat of initiated or referred~~  
27 ~~measures, other than a contribution to another person or measure committee~~  
28 ~~promoting passage or defeat of an initiated or referred measure, shall file a statement~~  
29 ~~pursuant to section 16.1-08.1-03.1 along with a statement listing the total amount of~~  
30 ~~money spent for that purpose. The statements filed pursuant to section 16.1-08.1-03.1~~  
31 ~~must be filed with the secretary of state no later than the twelfth day before the date of~~

1           ~~the election in which the measure appears or would have appeared on the ballot~~  
2           ~~complete from the beginning of that calendar year through the twentieth day before the~~  
3           ~~date of the election. Statements showing the total amount of money spent for the~~  
4           ~~purpose of promoting passage or defeat of initiated or referred measures must be filed~~  
5           ~~with the secretary of state through the end of the calendar year in which the measure~~  
6           ~~appeared on the ballot.~~

7           2. A corporation, cooperative corporation, limited liability company, or association may  
8           make a donation of property or money to a state political party or nonprofit entity  
9           affiliated with or under the control of a state political party for deposit in a separate and  
10          segregated fund. Money in the fund must be used exclusively by the state political  
11          party or nonprofit entity affiliated with or under the control of a state political party for  
12          purchasing, maintaining, or renovating a building and for the purchase of fixtures for  
13          the building. A state political party or nonprofit entity affiliated with or under the control  
14          of a state political party receiving a donation under this subsection shall file a  
15          statement with the secretary of state no later than the thirty-first day of January of  
16          each calendar year. The statement must include the name and mailing address of  
17          each donor, the amount of each donation, the date each donation was received, all  
18          expenditures made from the fund during the previous calendar year, and cash on hand  
19          in the fund at the start and close of the reporting period. Any income and financial gain  
20          generated from a building purchased, maintained, or renovated from donations  
21          authorized under this subsection and not otherwise authorized by law must be  
22          deposited in the building fund and must be reported when the political party or  
23          nonprofit entity files the statement required under this subsection.

24          3. A corporation, cooperative corporation, limited liability company, or association may  
25          make a direct expenditure for the purpose of promoting passage or defeat of initiated  
26          or referred measures. A direct expenditure statement must be filed with the secretary  
27          of state within forty-eight hours after making the expenditure. The statement must  
28          include:

29          a. The full name of the corporation, cooperative corporation, limited liability  
30          company, or association;

- 1           b. The complete address of the corporation, cooperative corporation, limited liability  
2           company, or association;
- 3           c. The name and telephone number of the person completing the report;
- 4           d. The title of the measure and whether the expenditure is made in support of or  
5           opposition to the measure;
- 6           e. The election date on which the measure either will appear or did appear on the  
7           ballot;
- 8           f. The amount of the expenditure;
- 9           g. The cumulative total amount of expenditures since the beginning of the calendar  
10          year in support of or opposition to the measure;
- 11          h. The printed name and signature of the person completing the report, attesting to  
12          the report being true, complete, and correct; and
- 13          i. The date on which the report was signed.

14           **SECTION 4. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.8 of the North Dakota  
15 Century Code is amended and reenacted as follows:

- 16           2. A multicandidate political committee shall file a statement containing the aggregated  
17           total of all contributions showing the name and mailing address of each contributor  
18           who contributed in excess of two hundred dollars in the aggregate to the committee  
19           during a reporting period, the aggregated amount of the reportable contributions in  
20           excess of two hundred dollars, and the date the last reportable contribution was  
21           received. However, for purposes of this section a multicandidate political committee  
22           need not report any contributions of fifty dollars or less made to the committee ~~in~~  
23           ~~exchange for any meal or food item provided~~ as part of a fundraising event by the  
24           committee ~~at which a meal is served.~~