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Deanne Hallmark
Operator's Signature

10/22/03

Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2341

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/13/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		1701-end
Tape 1		x	0-611
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2341. All senators present.

Al Jaeger, Secretary of State (Testimony attached)

Senator Krebsbach : Are out of state solicitors required to be licensed here?

Sec. Jaeger: Yes, they are required to be registered. We don't do the prosecution but, if we become aware of something then we turn them over to the Attorney General's office.

Senator Nelson : Can you go out of the country?

Sec. Jaeger: I will defer that to the Attorney General's office.

Senator Dever : Regarding the definition of charitable organizations, there might be some implications in the no call legislation and I am just curious...

Sec. Jaeger: I will defer that to the Attorney General's office.

Todd Sattler, Assistant Attorney General with Consumer Protection and Antitrust Division
(Testimony attached)

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10/22/03
Date

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2341

Hearing Date 02/13/03

Senator Nelson's question about going out of the country, I think a charity outside the country would have to register with North Dakota but they are harder to begin lawsuits against them.

Senator Krebsbach: How do we ask if they are registered in ND and get it out to the general public?

Sattler: Consumer alerts, speakers in our office, and we have all the information available at our office.

Senator Nelson : Professional fund raisers, example it is girl scout cookie season, is it okay for me to call my friends and sell my granddaughters cookies for her?

Sattler: Yes

Senator Dever : Does this prevent any impact on the other charity bill?

Sattler: I think they work hand in hand.

Brenda Dissette, Executive Director of ND Association of Nonprofit Organizations

(Testimony attached)

Senator Nelson : It would seem by the last sentence you are not happy with this bill but yet you say you support it?

Dissette: After seeing the amendments I am more comfortable with it.

Senator Dever : Are you able to file these reports electronically?

Dissette: We are working on that. Also as a sooner you can go in and look at all of that information.

Opposition

Tracy Morris, Vice President of Government Relations, American Cancer Society

(Testimony attached)

Page 3

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2341

Hearing Date 02/13/03

Senator Wardner : Have you seen the amendments?

Morris: I just glanced at them. I can provide a written response but I did not really see a change with the professional fund raiser part.

Senator Krebsbach : I receive many solicitations through out the year, I am receiving a lot from is the slone Ketterling Cancer research, is that in competition with the American Cancer Society?

Morris: I don't consider it competition from the stand point that we both have the same goal.

Senator Brown: I dont' understand you concern with this?

Morris: It does require a duplication of materials as far as reports with a lot of fees, I am not sure that this legislation realize the complication this could be.

Senator Brown: If it helps the Attorney General's office get some of the "bad guys" isn't it worth it?

Morris: I don't think this will help that. There is already a registration requirement. If they don't adhere to that why would the to this.

Senator Brown: Why would you have a problem with religious organizations being exempt?

Morris: I think bogus organizations would come in under bogus organizations and if we are going to do this I feel we should include all charitable organizations.

Senator Dever : If the Secretary of State lists on his web site everyone that is registered wouldn't that be useful to the citizens of ND.

Morris: I do think that would be useful but I don't understand why that couldn't be done under existing law.

Senator Dever : Wouldn't they be able to look at it and see the registration for one and not the other.

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10/22/03
Date

Page 4

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2341

Hearing Date 02/13/03

Morris: I think nothing should stop the Sec. of State from putting that up anyway.

Secretary Jaeger: I don't understand the opposition to this bill. The people that don't have to register is not a change in the law. there is nothing in this bill that that testimony provided that would impact the American Cancer Society at all.

Peril Grossman, Attorney General's office: I don't understand the concerns with the opposition. This legislation does make a significant stride. The Attorney General and I have great respect for the American Cancer Society. I would have to strongly disagree with the opposition. It dramatically changes our ability to investigate violations and our ability to subpoena records and better the whole process.

Closed SB 2341.

Tape 2 Side A 870-1200

Senator Nelson moves adoption of amendments

Senator Wardner seconds

6 Yes 0 No

Senator Brown moves Do Pass as amended

Senator Wardner seconds

6 Yes 0 No

Carrier: Senator Dever

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10/22/03

Date

FISCAL NOTE
Requested by Legislative Council
01/28/2003

Bill/Resolution No.: SB 2341

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill only changes the method by which the oversight and regulation of charitable solicitation is administered.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

None

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

None

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

None

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2910	Date Prepared:	01/29/2003

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Operator's Signature

Date

Date: 2/13/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2341

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38348.0101 Title .0200

Action Taken Amendments

Motion Made By Nelson Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

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Deanna Waller 10/22/03
Operator's Signature Date

Date: 2/13/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2341

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38348.0101 Title .0200

Action Taken DO Pass as amended

Motion Made By Brown Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Dick

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

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10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
February 14, 2003 3:16 p.m.

Module No: SR-29-2836
Carrier: Dever
Insert LC: 38348.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2341: Government and Veterans Affairs Committee (Sen. Krebebach, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2341 was placed
on the Sixth order on the calendar.

Page 2, line 24, replace "6033(a)(2)(A)(k)" with "6033(a)(2)(A)(l)"

Page 6, line 26, replace "Names and addresses of, and total annual compensation paid to, officers," with "Total compensation, including salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation, paid to employees by the charitable organization and all its affiliated organizations,"

Page 6, remove line 27

Page 7, line 4, remove "Copies of contracts between the charitable organization and professional"

Page 7, remove lines 5 through 8

Page 7, line 9, remove "p." and replace "on" with "or"

Page 7, line 11, replace "q." with "p."

Page 8, line 14, overstrike "or solicitor"

Page 10, line 4, remove "and"

Page 10, line 7, after "contributions" insert "; and"

c. Be submitted within ten days of the date of execution"

Page 10, after line 21, insert:

"5. A professional fundraiser may not solicit on behalf of a charitable organization that is not registered."

Page 12, line 11, remove "A list of the five highest paid directors, officers, and employees of the"

Page 12, remove lines 12 and 13

Page 12, line 14, remove "each," and replace "includes" with ", including"

Page 12, line 15, after "compensation" insert an underscored comma and after "paid" insert "to employees"

Page 12, line 16, replace "related" with "its affiliated"

Page 13, line 3, overstrike "the organization's registration will"

Page 13, line 4, overstrike "no longer be in effect and"

Page 13, line 20, after the overstruck period insert "Any person conducting a solicitation after the person's registration is revoked is guilty of a class C felony. The criminal penalties in this section are in addition to all other causes of action, remedies, and penalties available to the state."

(2) DESK, (3) COMM

Page No. 1

SR-29-2836

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10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
February 14, 2003 3:16 p.m.

Module No: SR-29-2836
Carrier: Dever
Insert LC: 38348.0101 Title: .0200

Page 14, line 15, after "chapter" insert "in accordance with chapter 28-32, but which need not comply with section 28-32-07"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

SR-29-2836

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Date

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2341

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10/22/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2341

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-07-03

Tape Number	Side A	Side B	Meter #
1		x	36.6-end
2	x		0-20.8
Committee Clerk Signature <i>Jeff R. Rike</i>			

Minutes: Chairman Klein opened the hearing on SB 2341. All committee members were present.

Al Jaeger, Secretary of State was the sponsor and appeared in favor the SB 2341 (SEE ATTACHED TESTIMONY).

Todd A. Sattler, Assistant Attorney General, Consumer Protection and Antitrust Division appeared and was in support of SB 2341 (SEE ATTACHED TESTIMONY).

Representative Klemin: How does this work with local churches and colleges are they all subject to the same requirements?

Al Jaeger: Churches are specifically excluded and also anything with schools. So what we already have under current law, really nothing is being changed except the definitions which are better defined. This doesn't apply to churches in most particular cases we are concerned about the sweat shops.

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10/22/03
Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2341

Hearing Date 3-07-03

Deb Knutson, American Cancer Society, appeared in opposition of SB 2341. And I'm asking for an amendment, we are concerned about the graphic artists or any number of consultants I'm speaking specifically about page 4 line 7. I'm suggesting that you make two changes, change 1 asking for line 7 be deleted on page 4 delete line 8 and 9 on page 4 line 10 delete for charitable organizations.

Representative Grande: made a DO PASS motion on SB 2341.

Representative Haas: SECOND the do pass motion on SB 2341.

VOTE: 14-YES 0-NO 0-ABSENT.

Motion carried.

Representative Klemin: will carry the bill to the floor.

Meeting adjourned.

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10/22/03
Date

Roll Call Vote #:

Date: 3-07-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. SB 2341

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Grande

Seconded By

Rep. Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	X				
L.R. Klemin	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Klemin

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

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Date

REPORT OF STANDING COMMITTEE (410)
March 7, 2003 11:43 a.m.

Module No: HR-41-4214
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2341, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2341 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-41-4214

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2003 TESTIMONY

SB 2341

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10/22/03

Date

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.state.nd.us/sec



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SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0600

February 13, 2003

TO: Senator Krebsbach and Members of the Government and Veteran's Affairs Committee
FR: Al Jaeger, Secretary of State
RE: SB 2341 - Charitable Solicitation

Chapter 50-22 of the North Dakota Century Code governs charitable solicitation. The adoption of this bill would do the following:

Section 1: This section of the bill pertains to N.D.C.C. § 50-22-01, which is the section of state law that defines the terminology used throughout the chapter on charitable solicitation. It would:

- add a definition for accounting year (page 1, line 10);
- improve the definition of a charitable organization (page 1, lines 12 through 22);
- eliminate references to religious organizations that appear in other parts within this section of law and create a new subsection specifically for a religious society or organization (page 2, line 21);
- add a definition for charitable purpose (page 3, line 1);
- broaden the definition of contribution (page 3, line 4);
- improve the definition of a professional fundraiser (page 4, line 4).

Section 2: This section of the bill pertains to N.D.C.C. § 50-22-02, which is the section of state law that regulates the licensing, renewal, and revocation of charitable solicitation licenses. It would:

- eliminate all references to licensing;
- replace licensing with a registration process that must be completed before an organization is allowed to solicit any contributions within the state (page 6, lines 15 through 31 and page 7, lines 1 through 11);
- maintain the present fee structure and clarify the process for revocation, denial, or suspension of an organization's registration (page 7, lines 12 through 24);
- establish that the board of directors, trustees, or managing group of the organization has the responsibility for determining matters of policy and for supervision of the finances. (page 7, lines 25 through 31 and page 8, lines 1 and 2);
- clarify registration requirements for an organization that has a parent organization.

Section 3: This section of the bill pertains to N.D.C.C. § 50-22-02.1, which is the section of state law that regulates the registration of a professional fundraiser. It would:

- require a professional fundraiser to file, as part of their registration requirement, a bond for \$20,000 (page 9, lines 22 through 30);
- include, as part of the registration, a copy of the contract and information regarding who will have custody of contributions and if additional contracts are secured after the initial registration, the professional fundraiser must submit them within ten days.

Continued on reverse side

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10/22/03
Date

SB 2341
Page two

Section 4: This section of the bill pertains to N.D.C.C. § 50-22-04, which is the section of state law that prescribes the annual reporting requirements for charitable organizations. It would:

- prescribe the information that must be reported by a charitable organization (page 11, lines 21 through 31 and page 12, lines 1 through 16);
- immediately make ineffective the registration of any charitable organization that fails to file an annual report (page 12, lines 29 through 31 and page 13, lines 1 and 2).

Section 5: Make technical wording changes in this section.

Section 6: This section of the bill pertains to N.D.C.C. § 50-22-05, which is the section of state law that addresses the enforcement of the provisions of this chapter. It would:

- clarify the procedures by which the Attorney General can enforce the provisions of the chapter and seek remedies (entire section).

Section 7: Create a new section regarding the entitlement of the Attorney General to recover costs if so awarded.

Section 8: Allow the Secretary of State to establish administrative rules as may be needed.

Section 9: Repeal the following section of law because its provisions are being covered in other sections of this bill.

50-22-04.2. Contract or statement filing. Every contract, written agreement, or written statement of the nature of the arrangement to prevail in the absence of a contract between a professional fundraiser or solicitor and a charitable organization must be filed by the professional fundraiser and the charitable organization with the secretary of state within ten days after such contract, written agreement, or written statement is concluded.

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10/22/03
Date

PROPOSED AMENDMENTS TO SENATE BILL NO. 2341

Page 2, line 24, replace "6033(a)(2)(A)(k)" with "6033(a)(2)(A)(i)"

Page 6, line 26, after "h." remove "Names and addresses of, and total annual compensation paid to officers, directors, trustees, and chief executive officer," and replace with "Total compensation, including salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation, paid to employees by the charitable organization and all its affiliated organizations."

Page 7, line 4, after "g." remove "Copies of contracts between the charitable organization and professional fundraisers relating to financial compensation or profit to be derived by the professional fundraisers. If a contract is executed after filing of the registration statement, a copy of the contract must be filed within seven days of the date of execution."

Page 7, line 9, replace "on" with "or"

Page 8, line 14, overstrike "or solicitor"

Page 10, line 7, immediately after "contribution" insert "; and" and remove "."

Page 10, line 8, insert: "C. Be submitted within ten days of the date of execution."

Page 10, line 22, insert "5. A professional fundraiser may not solicit on behalf of a charitable organization that is not registered."

Page 12, line 11, after "i." remove "A list of the five highest paid directors, officers, and employees of the organization and its related organizations that receive total compensation of more than fifty thousand dollars, together with the total compensation paid to each."

Page 12, line 14, after "compensation" insert "," and remove "includes" and replace with "including"

Page 12, line 15, after "compensation" insert "," and after "paid" insert "to employees"

Page 12, line 16, after "all" insert "its" and remove "related" and replace with "affiliated"

Page 13, line 3, overstrike "organization's registration will"

Page 13, line 4, overstrike "no longer be in effect and the"

Page 13, line 20, after "fundraising activities," insert "Any person conducting a solicitation after the person's registration is revoked is guilty of a class C felony. The criminal penalties in this section are in addition to all other causes of action, remedies and penalties available to the state or any of its governmental agencies."

Page 14, line 15, immediately after "chapter" insert "in accordance with chapter 28-32, but which need not comply with section 28-32-07"

Renumber accordingly

SENATE GOVERNMENT AND VETERAN AFFAIRS COMMITTEE
KAREN K. KREBSBACH, CHAIRMAN
FEBRUARY 13, 2003

TESTIMONY BY
TODD A. SATTLER
ASSISTANT ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
SENATE BILL NO. 2341

Madam Chairman and members of the Government and Veteran Affairs committee. I am Todd Sattler, an Assistant Attorney General with the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General supports Senate Bill No. 2341.

The Consumer Protection Division works closely with the Secretary of State, Al Jaeger, and his staff in enforcing chapter 50-22 regulating charitable organizations and charitable solicitations. The Office of Attorney General, therefore, assisted in drafting this legislation.

Many professional fundraisers are legitimate, law-abiding enterprises that solicit contributions on behalf of legitimate, law-abiding charities. Some, of course, are not and their actions often require involvement by our office. Most recently, the Attorney General filed a lawsuit last October against a professional fundraiser in Wisconsin, Public Awareness, Inc., and four charities located in California and Louisiana for whom Public Awareness, Inc. raised and collected money. Public Awareness, Inc. had failed to register in North Dakota and then engaged in fundraising for the four charities, each of whom also were unregistered.

The Complaint in that case alleges that the professional fundraiser and the charities made numerous misrepresentations to North Dakota donors, including statements that the contributions would be used to pay for burn camps in North Dakota. In fact there are not any burn camps in North Dakota. The fundraiser and charities allegedly also told donors that they had donated in the past when that was not true. In order to further the alleged deception, the fundraiser and charities provided a Minot address for consumers to send donations. The address turned out to be merely a rented mailbox at a Pac 'N Ship store in Minot. The donated funds stayed in North Dakota only long enough for Pac 'N Ship to gather and forward the funds to the fundraiser in Wisconsin.

In this case, our office notified the fundraiser that it was engaged in illegal solicitations and obtained a court order to take possession of the checks being sent to Minot. Over the next few weeks, we received approximately 1500 checks with an estimated value of up to \$45,000 in donations based upon questionable solicitations.

Violations of the kind alleged in the Public Awareness, Inc. lawsuit, while not a day-to-day problem in our office, occur frequently enough to raise a concern. The purpose of the legislation before this committee is twofold. First, and foremost, it seeks to ensure

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Todd A. Sattler
Operator's Signature

10/22/03
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that North Dakota donors have information readily available to them in the office of the Secretary of State that will allow the donors to make an informed choice about their contributions. Constitutional protections limit any detailed investigation of fundraisers and charities before the fundraising begins. As such, the availability of detailed, up-to-date information is critical. The North Dakota donors that call our office want to know, for instance, whether the fundraiser or charity has been denied the right to fundraise by governmental agencies in the past. They want to know how much of their contribution will be used in the state and for what purposes. They want to know where the principal offices are located.

The second purpose of the legislation is to allow for effective enforcement of fundraisers and charities that violate the laws. This bill, for instance, contains a new provision requiring professional fundraisers to obtain a surety bond before doing business in North Dakota. The bond provides assurance that some assets -- the proposed amount here being \$20,000 -- will be available to donors whose contributions were unlawfully obtained. The bond application process also serves as an additional check on the legitimacy of fundraisers.

The proposed changes in this legislation will ensure that the Attorney General has the necessary enforcement tools in conducting investigations of fraudulent charitable solicitations. The amended legislation allows the Attorney General to use those powers and remedies necessary and appropriate to combat charity fraud.

The Attorney General does not intend to criticize legitimate organizations. Indeed, reputable organizations clearly comprise the vast majority of entities regulated by this statute. These organizations provide invaluable services to the citizens and communities of our state and life as we know it, without them, would not exist. There are many excellent charities in North Dakota. Nothing in this legislation will inhibit the ability of legitimate organizations to do their work. To the contrary, more effective enforcement, as contemplated by this bill, will increase donors' confidence and should result in increased donations to legitimate charities.

The Attorney General is committed to effective enforcement and the amended legislation will enhance our ability to protect our citizens and sanction individuals or organizations engaged in illegal charitable solicitations.

For these reasons, the Attorney General respectfully urges this committee to give Senate Bill 2341 a "do pass" recommendation.

Thank you for your time and consideration and I will be available to try and answer any questions.

My name is Brenda Dissette, Executive Director of the ND Association of Nonprofit Organizations. Our organization represents over 270 charitable nonprofit organizations throughout the state. Charitable nonprofit organizations in North Dakota provide essential services to people and communities; they give citizens opportunity to volunteer, educate the public on important issues; they can leverage government funds with private donations.

SB 2341 is a bill that will clean up and clarify definitions and will register charitable nonprofit and professional fundraisers who solicit funds in North Dakota. The state association is in complete agreement with that portion of SB2341. However, the increased reporting requirements for charitable nonprofit organizations are not necessary. Why, because the information they are looking for is already reported on the 990 form that all charitable nonprofit organizations are required if they have a budget over \$25,000. There are about 900 organizations that are required by law to submit a 990 on a yearly basis and are federally mandated to produce a copy of their 990 when requested in North Dakota. The increased regulations to submit a 990 to the state with the solicitation registration that already asks for fiscal information would be time consuming for the nonprofit and the Secretary of State office. 990's are available to the Attorney General's office and others by going to Guidestar.org or by contacting the organization of which they have three business days to provide copies to the entity that requested them.

North Dakota also require charitable nonprofit organizations to register to solicit and also accept the Unified Registration Statement (URS) with 36 other states. The fact is that this bill will not stop those entities that do not follow the rules and regulations; it only increases the amount of paperwork those ND nonprofits that do follow the rules and regulations and increases the workload of the state to accept and file the extra paperwork.

Brenda Dissette, Executive Director

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Brenda Dissette
Operator's Signature

10/22/03
Date

**Testimony Against Enactment of SB 2341
American Cancer Society**

For more information, contact:

Tracy Morris, Vice President for Government Relations
Rocky Mountain Division
(303)758-2030

Madam Chairperson, Members of the Committee:

I appear before you today with concerns about the potential impact of SB 2341 if enacted. I am here on behalf of one of the largest and reputable charities in the country, the American Cancer Society. Since the Society's inception in the early 1900's, we have established ourselves as the second largest contributor of funds for cancer research. Our effort is second only to the federal government. In fact, for research alone, the American Cancer Society has contributed over \$2 billion. While that contribution alone is substantial, it is just a portion of the services undertaken by the American Cancer Society to eradicate cancer. For patients going through the cancer experience, we try to provide comfort. Patient services encompass everything from supplying wigs to women suffering from breast cancer to establishing support groups. Another important component of our mission is education. We provide information to physicians on the latest diagnostic advances and treatments. We raise awareness through community outreach so that the public may make informed decisions about obtaining cancer screenings. In the area of advocacy, we attempt to enact laws that provide for early detection of cancer through insurance coverage and sufficient access to medical care.

All of these tasks and our well-documented advances in the fight against cancer are possible through donations. We take very seriously the public's support and belief that we will be good stewards of their contributions. As you encounter daily in your role as an elected official, your word and reputation are everything.

We understand the rationale behind the drafting of SB 2341. Our approach to our mission and the very culture of the American Cancer Society is one of the consumer comes first. Certainly this is an attitude that is shared by this legislature. When there are profiteers hiding behind the umbrella of a charitable organization, it is as much a concern to us as it is to you. These bogus organizations do more to paint the entire charitable community as suspect in their endeavors than any other action. We believe the solution to these scams is to prosecute to the fullest so that other groups will take heed and refrain from similar actions.

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We do not believe that SB 2341 as written will have a deterring effect and in fact, will hurt genuine charitable organizations. I believe there is an underlying, faulty assumption in this legislation that bogus groups will actually register under this new law. When people are intent on breaking the law, why should we assume that they will adhere to any parameters outlined in this bill? Again, legitimate organizations will complete this task while scofflaws will not. I would venture to guess that the bogus organizations that caused this bill to be brought forward were not registered in North Dakota under current registration requirements.

In addition to this overriding concern, I question some of the bill's loopholes. For example, institutions of higher learning would be exempt from these requirements. What would stop a bad player from organizing under a higher ed title. The legislation doesn't even specify that this exemption apply to accredited institutions of higher learning. There is also an exemption for religious entities. Again, there are those who could and would take advantage of such an exemption.

Finally, I have a concern over the definition of professional fundraiser. The definition in the bill states, "a person who for compensation or profit prepares material for the solicitation in this state of contributions for a charitable organization." This is such a broad definition that it could include many individuals and businesses that are not actually engaged in the solicitation. For example, I would interpret this definition to include printers used to print fundraising materials. Certainly, this is not the aim of the legislation.

The American Cancer Society and all charitable organizations are required to file a 990 federal tax return. The information included in the 990 contains much of the substance requested here. Our organization posts its 990 on our website. We are also audited annually and consistently receive a high rating from charitable watchdog groups as applying most funds to our mission.

With all of this in mind, I urge you to reject SB 2341.

Thank you.

HOUSE GOVERNMENT AND VETERAN AFFAIRS COMMITTEE
MATHEW M. KLEIN, CHAIRMAN
MARCH 7, 2003

TESTIMONY BY
TODD A. SATTLER
ASSISTANT ATTORNEY GENERAL
CONSUMER PROTECTION AND ANTITRUST DIVISION
OFFICE OF ATTORNEY GENERAL
IN SUPPORT OF
SENATE BILL NO. 2341

Mr. Chairman and members of the Government and Veteran Affairs committee. I am Todd Sattler, an Assistant Attorney General with the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General supports Senate Bill No. 2341.

The Consumer Protection Division works closely with the Secretary of State, Al Jaeger, and his staff in enforcing chapter 50-22 regulating charitable organizations and charitable solicitations. The Office of Attorney General, therefore, assisted in drafting this legislation.

Many professional fundraisers are legitimate, law-abiding enterprises that solicit contributions on behalf of legitimate, law-abiding charities. Some, of course, are not and their actions often require involvement by our office. Most recently, the Attorney General filed a lawsuit last October against a professional fundraiser in Wisconsin, Public Awareness, Inc., and four charities located in California and Louisiana for whom Public Awareness, Inc. raised and collected money. Public Awareness, Inc. had failed to register in North Dakota and then engaged in fundraising for the four charities, each of whom also were unregistered.

The Complaint in that case alleges that the professional fundraiser and the charities made numerous misrepresentations to North Dakota donors, including statements that the contributions would be used to pay for burn camps in North Dakota. In fact there are not any burn camps in North Dakota. The fundraiser and charities allegedly also told donors that they had donated in the past when that was not true. In order to further the alleged deception, the fundraiser and charities provided a Minot address for consumers to send donations. The address turned out to be merely a rented mailbox at a Pac 'N Ship store in Minot. The donated funds stayed in North Dakota only long enough for Pac 'N Ship to gather and forward the funds to the fundraiser in Wisconsin.

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The challenge is to achieve a balance that allows for adequate consumer information while avoiding registration requirements that are unduly burdensome. This bill strikes that balance. Charities and those hired by the charities to assist with solicitations must register. Those who merely perform services -- a printing company uninvolved with the solicitation, for example -- are not required to register.

* The second purpose of the legislation is to allow for effective enforcement of fundraisers and charities that violate the laws. This bill, for instance, contains a new provision requiring professional fundraisers to obtain a surety bond before doing business in North Dakota. The bond provides assurance that some assets -- the proposed amount here being \$20,000 -- will be available to donors whose contributions were unlawfully obtained. The bond application process also serves as an additional check on the legitimacy of fundraisers.

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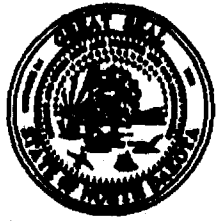
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Deanna Waller
Operator's Signature

10/22/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.state.nd.us/sec



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0600

March 7, 2003

PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL ecs@state.nd.us

TO: Rep. Klein and Members of the House Government and Veteran's Affairs Committee
FR: Al Jaeger, Secretary of State
RE: SB 2341 - Charitable Solicitation

Chapter 50-22 of the North Dakota Century Code governs charitable solicitation. The adoption of this bill would do the following:

Section 1: This section of the bill pertains to N.D.C.C. § 50-22-01, which is the section of state law that defines the terminology used throughout the chapter on charitable solicitation. It would:

- add a definition for accounting year (page 1, line 10);
- improve the definition of a charitable organization (page 1, lines 12 through 22);
- eliminate references to religious organizations that appear in other parts within this section of law and create a new subsection specifically for a religious society or organization (page 2, line 21);
- add a definition for charitable purpose (page 3, line 1);
- broaden the definition of contribution (page 3, lines 5 through line 10);
- improve the definition of a professional fundraiser (page 4, lines 4 through 10).

Section 2: This section of the bill pertains to N.D.C.C. § 50-22-02, which is the section of state law that regulates the licensing, renewal, and revocation of charitable solicitation licenses. It would:

- eliminate all references to licensing;
- replace licensing with a registration process that must be completed before an organization is allowed to solicit any contributions within the state (page 6, lines 15 through 31 and page 7, lines 1 through 7);
- maintain the present fee structure and clarify the process for revocation, denial, or suspension of an organization's registration (page 7, lines 8 through 20);
- establish that the board of directors, trustees, or managing group of the organization has the responsibility for determining matters of policy and for supervision of the finances (page 7, lines 21 through 29);
- clarify registration requirements for an organization that has a parent organization (page 7 lines 30 and 31, page 8, lines 1 through 4).

Section 3: This section of the bill pertains to N.D.C.C. § 50-22-02.1, which is the section of state law that regulates the registration of a professional fundraiser. It would:

- require a professional fundraiser to file, as part of their registration requirement, a bond for \$20,000 (page 9, lines 18 through 26);
- include, as part of the registration, a copy of the contract and information regarding who will have custody of contributions and if additional contracts are secured after the initial registration, the professional fundraiser must submit them within ten days (page 9, lines 27 through 30, page 10, lines 1 through 4).

Continued on reverse side

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Page two

Section 4: This section of the bill pertains to N.D.C.C. § 50-22-04, which is the section of state law that prescribes the annual reporting requirements for charitable organizations. It would:

- prescribe the information that must be reported by a charitable organization (page 11, lines 21 through 31 and page 12, lines 1 through 19);
- Immediately make ineffective the registration of any charitable organization that fails to file an annual report (page 12, lines 26 through 30).

Section 5: Makes technical wording changes in this section.

Section 6: This section of the bill pertains to N.D.C.C. § 50-22-05, which is the section of state law that addresses the enforcement of the provisions of this chapter. It would:

- clarify the procedures by which the Attorney General can enforce the provisions of the chapter and seek remedies (page 11, lines 19 through 21, page 12, lines 3 through 7).

Section 7: Create a new section regarding the entitlement of the Attorney General to recover costs if so awarded by the court.

Section 8: Allow the Secretary of State to establish administrative rules as may be needed.

Section 9: Repeal the following section of law because its provisions are being covered in other sections of this bill.

50-22-04.2. Contract or statement filing. Every contract, written agreement, or written statement of the nature of the arrangement to prevail in the absence of a contract between a professional fundraiser or solicitor and a charitable organization must be filed by the professional fundraiser and the charitable organization with the secretary of state within ten days after such contract, written agreement, or written statement is concluded.

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