

Introduced by

Senators Schneider, Wardner

1 A BILL for an Act to amend and reenact sections 16.1-08.1-01, 16.1-08.1-03.5, 16.1-08.1-05,
2 and 16.1-08.1-07 of the North Dakota Century Code, relating to campaign contributions and
3 expenditures; to repeal subsection 1 of section 16.1-08.1-03.3 of the North Dakota Century
4 Code, relating to campaign contributions; and to provide a penalty.

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~~An individual holding public office;
- 20 b. ~~A person~~An individual who has publicly declared that ~~person's~~individual's
21 candidacy for nomination for election or election to public office or has filed or
22 accepted a nomination for public office;
- 23 c. ~~A person~~An individual who has formed a campaign or other committee for that
24 ~~person's~~individual's candidacy for public office;

- 1 d. ~~A person~~An individual who has circulated a nominating petition to have that
2 ~~person's~~individual's name placed on the ballot; and
- 3 e. ~~A person~~An individual who has, in any manner, solicited or received a
4 contribution for that ~~person's~~individual's candidacy for public office, whether
5 before or after the election for that 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~~individual to public
9 office or aiding or opposing the circulation or passage of a statewide initiative or
10 referendum petition or measure. The term also means a contract, promise, or
11 agreement, express or implied, whether or not legally enforceable, to make a
12 contribution for any of the above purposes. The term includes funds received by a
13 candidate for public office or a political party or committee which are transferred or
14 signed over to that candidate, party, or committee from another candidate, party, or
15 political committee or other source. The term "anything of value" includes any good or
16 service of more than a nominal value. The term "nominal value" means the cost, price,
17 or worth of the good or service is trivial, token, or of no appreciable value. The term
18 "contribution" does not 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 g. An independent expenditure.
- 2 4. "Cooperative corporations", "corporations", and "limited liability companies" are as
3 defined in this code, and for purposes of this chapter "corporations" includes nonprofit
4 corporations.
- 5 5. ~~"Direct expenditure" means an expenditure made by a corporation, cooperative~~
6 ~~corporation, limited liability company, or association for the specific purpose of~~
7 ~~promoting passage or defeat of an initiated or referred measure without the express or~~
8 ~~implied consent, authorization, or cooperation of, and not in concert with or at the~~
9 ~~request or suggestion of a measure committee.~~
- 10 6. "Expenditure" means a:
- 11 a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution,
12 disbursement, outlay, or deposit of money or anything of value, except a loan of
13 money from a bank or other lending institution made in the regular course of
14 business, made for a political purpose or for the direct purpose of influencing the
15 passage or defeat of a measure or the nomination for election, or election, of any
16 individual to office. The term also means a
- 17 b. A contract, promise, or agreement, express or implied, whether or not legally
18 enforceable, to make any expenditure and includes the.
- 19 c. The transfer of funds by a political committee to another political committee.
- 20 d. An independent expenditure.
- 21 6. "Independent expenditure" means an expenditure made for a political purpose or for
22 the direct purpose of influencing the passage or defeat of a measure if the expenditure
23 is made without the express or implied consent, authorization, or cooperation of, and
24 not in concert with or at the request or suggestion of, any candidate or a candidate
25 committee or measure committee.
- 26 7. "Patron" means a person who owns equity interest in the form of stock, shares, or
27 membership or maintains similar financial rights in a cooperative corporation.
- 28 8. "Person" means an individual, partnership, political committee, association,
29 corporation, cooperative corporation, limited liability company, or other organization or
30 group of persons.

- 1 9. "Political committee" means any committee, club, association, or other group of
2 persons which receives contributions or makes expenditures for political purposes and
3 includes the following:
- 4 a. A political action committee, derived from a corporation, cooperative corporation,
5 limited liability company, or an association that is prohibited from making a direct
6 ~~contributions~~contribution for political purposes under section
7 ~~16-1-08.1-03.3~~16-1-08.1-03.5, and which solicits or receives contributions or
8 makes expenditures for political purposes;
- 9 b. A candidate committee, established to support an individual candidate seeking
10 statewide office, that solicits or receives contributions for political purposes;
- 11 c. An organization governed by ~~section 527 of~~ the Internal Revenue Code
12 ~~[26 U.S.C. 527]~~, and registered with the federal election commission which solicits
13 or receives contributions or makes expenditures for political purposes;
- 14 d. A multicandidate political committee, established to support multiple groups or
15 slates of candidates seeking public office, that solicits or receives contributions
16 for political purposes; and
- 17 e. A measure committee that solicits or receives contributions for the purpose of
18 aiding or opposing a measure to be voted upon by the voters of the state.
- 19 10. "Political party" means any association, committee, or organization which nominates a
20 candidate for election to any office which may be filled by a vote of the electors of this
21 state or any of its political subdivisions and whose name appears on the election ballot
22 as the candidate of such association, committee, or organization.
- 23 11. "Political purpose" means any activity undertaken in support of or in opposition to the
24 election or nomination of a candidate to public office and includes using "vote for",
25 "oppose", or any similar support or opposition language in any advertisement whether
26 the activity is undertaken by a candidate, a political committee, a political party, or any
27 person. In the period thirty days before a primary election and sixty days before a
28 special or general election, "political purpose" also means any activity in which a
29 candidate's name, office, district, or any term meaning the same as "incumbent" or
30 "challenger" is used in support of or in opposition to the election or nomination of a
31 candidate to public office. The term does not include activities undertaken in the

1 performance of a duty of a state office or any position taken in any bona fide news
2 story, commentary, or editorial.

3 12. "Public office" means every office to which ~~persons~~an individual can be elected by
4 vote of the people under the laws of this state.

5 **SECTION 2. AMENDMENT.** Section 16.1-08.1-03.5 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-08.1-03.5. Allowable corporate contributions and expenditures - Report required.**

- 8 1. ~~Corporations, cooperative corporations, limited liability companies, and associations~~
9 ~~may make contributions to a measure committee, as described in section~~
10 ~~16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred~~
11 ~~measures.~~ Corporations, cooperative corporations, limited liability companies, and
12 associations may make expenditures and contributions for promoting any general
13 political philosophy or belief deemed in the best interest of the employees,
14 stockholders, patrons, or members of the corporation, cooperative corporation, limited
15 liability company, or association other than a "political purpose" as defined by this
16 chapter. A corporation, cooperative corporation, limited liability company, or
17 association may not make a direct contribution for a political purpose.
- 18 2. A corporation, cooperative corporation, limited liability company, or association may
19 make a donation of property or money to a state political party or nonprofit entity
20 affiliated with or under the control of a state political party for deposit in a separate and
21 segregated fund. Money in the fund must be used exclusively by the state political
22 party or nonprofit entity affiliated with or under the control of a state political party for
23 purchasing, maintaining, or renovating a building and for the purchase of fixtures for
24 the building. A state political party or nonprofit entity affiliated with or under the control
25 of a state political party receiving a donation under this subsection shall file a
26 statement with the secretary of state no later than the thirty-first day of January of
27 each calendar year. The statement must include the name and mailing address of
28 each donor, the amount of each donation, the date each donation was received, all
29 expenditures made from the fund during the previous calendar year, and cash on hand
30 in the fund at the start and close of the reporting period. Any income and financial gain
31 generated from a building purchased, maintained, or renovated from donations

1 authorized under this subsection and not otherwise authorized by law must be
2 deposited in the building fund and must be reported when the political party or
3 nonprofit entity files the statement required under this subsection.

- 4 3. A corporation, cooperative corporation, limited liability company, or association may
5 make a contribution to a measure committee for the purpose of promoting the passage
6 or defeat of an initiated or referred measure or make a contribution to any other
7 person that makes an independent expenditure. A corporation, cooperative
8 corporation, limited liability company, or association may make a ~~direct~~an independent
9 expenditure for a political purpose or for the purpose of promoting passage or defeat
10 of initiated or referred measures. ~~A direct expenditure~~The corporation, cooperative
11 corporation, limited liability company, or association shall file a statement disclosing a
12 contribution or an expenditure made under this subsection~~must be filed~~ with the
13 secretary of state within forty-eight hours after making the contribution or expenditure.

14 The statement must include:

- 15 a. The full name of the corporation, cooperative corporation, limited liability
16 company, or association;
- 17 b. The complete address of the corporation, cooperative corporation, limited liability
18 company, or association;
- 19 c. ~~The name and telephone number of the person completing the report~~of the
20 recipient of the contribution or expenditure;
- 21 ~~d. The title of the measure and whether the expenditure is made in support of or~~
22 ~~opposition to the measure;~~
- 23 e. ~~The election date on which the measure either will appear or did appear on the~~
24 ~~ballet;~~
- 25 ~~f.d.~~ The amount of the contribution or expenditure;
- 26 ~~g.e.~~ The cumulative total amount of contributions and expenditures since the
27 beginning of the calendar year ~~in support of or opposition to the measure~~ which
28 are required to be reported under this subsection;
- 29 ~~h.f.~~ The printed name and signature of the ~~person~~individual completing the report,
30 attesting to the report being true, complete, and correct; and
- 31 ~~i.g.~~ The date on which the report was signed.

1 **SECTION 3. AMENDMENT.** Section 16.1-08.1-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-08.1-05. Audit by secretary of state - Requested audits - Reports.**

- 4 1. If a substantial irregularity is evident or reasonably alleged, the secretary of state may
5 arrange an audit of any statement filed pursuant to this chapter, to be performed by a
6 certified public accountant of the filer's choice, subject to approval by the secretary of
7 state. If an audit of a statement arranged by the secretary of state under this
8 subsection reveals a violation of this chapter, the candidate, political party, or political
9 committee, or other person filing the statement shall pay a fine to the secretary of
10 state equal to ~~five~~two hundred percent of the aggregate of contributions and
11 expenditures found to be in violation or an amount sufficient to pay the cost of the
12 audit, whichever is greater. If an audit of a statement arranged by the secretary of
13 state under this subsection does not reveal a violation of this chapter, the cost of the
14 audit must be paid for by the secretary of state.
- 15 2. If a substantial irregularity is reasonably alleged, the secretary of state may arrange an
16 audit of any statement filed pursuant to this chapter, performed by a certified public
17 accountant of the filer's choice, subject to approval by the secretary of state, upon
18 written request by any interested party made to the secretary of state within thirty days
19 following receipt of a statement by the secretary of state. The request must be made in
20 writing, recite a substantial irregularity and a lawful reason for requesting an audit, and
21 be accompanied by a bond in an amount established by the secretary of state
22 sufficient to pay the cost of the audit. If an audit of a statement arranged by the
23 secretary of state under this subsection reveals a violation of this chapter, the
24 candidate, political party, or political committee filing the statement shall pay a fine to
25 the secretary of state equal to ~~five~~two hundred percent of the aggregate of
26 contributions and expenditures found to be in violation or an amount sufficient to pay
27 the cost of the audit, whichever is greater, and the bond shall be returned to the
28 person submitting it. If an audit of a statement arranged by the secretary of state under
29 this subsection does not reveal a violation of this chapter, the cost of the audit must be
30 satisfied from the bond filed with the secretary of state.

1 3. An audit may not be made or requested of a statement for the sole reason that it was
2 not timely filed with the secretary of state. An audit made or arranged according to this
3 section must audit only those items required to be included in any statement,
4 registration, or report filed with the secretary of state according to this chapter. The
5 secretary of state may collect any payment obligation arising out of this section by civil
6 action or by assignment to a collection agency, with any costs of collection to be
7 added to the amount owed and to be paid by the delinquent filer. Any remaining
8 moneys collected by the secretary of state after an audit is paid for under this section
9 must be deposited in the state's general fund. This section does not apply to
10 statements filed according to sections 16.1-08.1-03.10 and 16.1-08.1-03.11.

11 **SECTION 4. AMENDMENT.** Section 16.1-08.1-07 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-08.1-07. Penalty.**

14 Except as otherwise provided, any person who willfully violates any provision of this chapter
15 is guilty of an ~~infraction~~ class A misdemeanor.

16 **SECTION 5. REPEAL.** Subsection 1 of section 16.1-08.1-03.3 of the North Dakota Century
17 Code is repealed.