

Introduced by

Senators Dever, Dotzenrod, Hogue

Representatives J. Nelson, M. Nelson, Thoreson

1 A BILL for an Act to amend and reenact section 16.1-08.1-01 and subsection 2 of section
2 16.1-08.1-03.3 of the North Dakota Century Code, relating to campaign contributions.

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

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

6 **16.1-08.1-01. Definitions.**

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

8 1. "Affiliate" means an organization that controls, is controlled by, or is under common
9 control with another organization. For purposes of this definition, control means the
10 possession, direct or indirect, of the power to direct or cause the direction of the
11 management and policies of an organization, whether through the ownership of voting
12 securities, by contract other than a commercial contract for goods or nonmanagement
13 services, or otherwise. Control is presumed to exist if an organization, directly or
14 indirectly, owns, controls, holds with the power to vote, or holds proxies representing
15 fifty percent or more of the voting securities of any other organization.

16 2. "Association" means any club, association, union, brotherhood, fraternity, organization,
17 or group of any kind of two or more persons, including labor unions, trade
18 associations, professional associations, or governmental associations, which is united
19 for any purpose, business, or object and which assesses any dues, membership fees,
20 or license fees in any amount, or which maintains a treasury fund in any amount. The
21 term does not include corporations, cooperative corporations, limited liability
22 companies, political committees, or political parties.

23 2-3. "Candidate" means an individual who seeks nomination for election or election to
24 public office, and includes:

- 1 a. A person holding public office;
- 2 b. A person who has publicly declared that person's candidacy for nomination for
3 election or election to public office or has filed or accepted a nomination for public
4 office;
- 5 c. A person who has formed a campaign or other committee for that person's
6 candidacy for public office;
- 7 d. A person who has circulated a nominating petition to have that person's name
8 placed on the ballot; and
- 9 e. A person who has, in any manner, solicited or received a contribution for that
10 person's candidacy for public office, whether before or after the election for that
11 office.
- 12 ~~3.4.~~ "Contribution" means a gift, a transfer, a conveyance, a provision, a receipt, a
13 subscription, a loan, an advance, a deposit of money, or anything of value, made for
14 the purpose of influencing the nomination for election, or election, of any person to
15 public office or aiding or opposing the circulation or passage of a statewide initiative or
16 referendum petition or measure. The term also means a contract, a promise, or an
17 agreement, express or implied, whether or not legally enforceable, to make a
18 contribution for any of the above purposes. The term includes funds received by a
19 candidate for public office or a political party or committee which are transferred or
20 signed over to that candidate, party, or committee from another candidate, party, or
21 political committee or other source. The term "anything of value" includes any good or
22 service of more than a nominal value. The term "nominal value" means the cost, price,
23 or worth of the good or service is trivial, token, or of no appreciable value. The term
24 "contribution" does not include:
- 25 a. A loan of money from a bank or other lending institution made in the regular
26 course of business.
- 27 b. Time spent by volunteer campaign or political party workers.
- 28 c. Money spent by a candidate on the candidate's own behalf.
- 29 d. Money or anything of value received for commercial transactions, including rents,
30 advertising, or sponsorships made as a part of a fair market value bargained-for
31 exchange.

- 1 e. Money or anything of value received by a candidate in that person's personal
2 capacity, including pursuant to a contract or agreement made for personal or
3 private employment purposes, and not received for a political purpose or to
4 influence the performance of that person's official duty.
- 5 f. Contributions of products or services for which the actual cost or fair market
6 value are reimbursed by a payment of money.
- 7 ~~4.5.~~ "Cooperative corporations", "corporations", and "limited liability companies" are as
8 defined in this code, and for purposes of this chapter "corporations" includes nonprofit
9 corporations.
- 10 ~~5.6.~~ "Direct expenditure" means an expenditure made by a corporation, a cooperative
11 corporation, a limited liability company, or an association for the specific purpose of
12 promoting passage or defeat of an initiated or a referred measure without the express
13 or implied consent, authorization, or cooperation of, and not in concert with or at the
14 request or suggestion of a measure committee.
- 15 ~~6.7.~~ "Expenditure" means a gift, a transfer, a conveyance, a provision, a loan, an advance,
16 a payment, a distribution, a disbursement, an outlay, or a deposit of money or anything
17 of value, except a loan of money from a bank or other lending institution made in the
18 regular course of business, made for the direct purpose of influencing the passage or
19 defeat of a measure or the nomination for election, or election, of any individual to
20 office. The term also means a contract, a promise, or an agreement, express or
21 implied, whether or not legally enforceable, to make any expenditure and includes the
22 transfer of funds by a political committee to another political committee.
- 23 ~~7.8.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or
24 membership or maintains similar financial rights in a cooperative corporation.
- 25 ~~8.9.~~ "Person" means an individual, a partnership, a political committee, an association, a
26 corporation, a cooperative corporation, a limited liability company, or other
27 organization or group of persons.
- 28 ~~9.10.~~ "Political committee" means any committee, club, association, or other group of
29 persons which receives contributions or makes expenditures for political purposes and
30 includes the following:

- 1 a. A political action committee, derived from a corporation, a cooperative
2 corporation, a limited liability company, or an association that is prohibited from
3 making direct contributions for political purposes under section 16.1-08.1-03.3,
4 and which solicits or receives contributions or makes expenditures for political
5 purposes;
- 6 b. A candidate committee, established to support an individual candidate seeking
7 statewide office, that solicits or receives contributions for political purposes;
- 8 c. An organization governed by section 527 of the Internal Revenue Code
9 [26 U.S.C. 527], which solicits or receives contributions or makes expenditures
10 for political purposes;
- 11 d. A multicandidate political committee, established to support multiple groups or
12 slates of candidates seeking public office, that solicits or receives contributions
13 for political purposes; and
- 14 e. A measure committee that solicits or receives contributions for the purpose of
15 aiding or opposing a measure to be voted upon by the voters of the state.
- 16 ~~40.11.~~ "Political party" means any association, committee, or organization which nominates a
17 candidate for election to any office which may be filled by a vote of the electors of this
18 state or any of its political subdivisions and whose name appears on the election ballot
19 as the candidate of such association, committee, or organization.
- 20 ~~44.12.~~ "Political purpose" means any activity undertaken in support of or in opposition to the
21 election or nomination of a candidate to public office and includes using "vote for",
22 "oppose", or any similar support or opposition language in any advertisement whether
23 the activity is undertaken by a candidate, a political committee, a political party, or any
24 person. In the period thirty days before a primary election and sixty days before a
25 special or general election, "political purpose" also means any activity in which a
26 candidate's name, office, district, or any term meaning the same as "incumbent" or
27 "challenger" is used in support of or in opposition to the election or nomination of a
28 candidate to public office. The term does not include activities undertaken in the
29 performance of a duty of a state office or any position taken in any bona fide news
30 story, commentary, or editorial.

1 ~~12-13.~~ "Public office" means every office to which persons can be elected by vote of the
2 people under the laws of this state.

3 14. "Subsidiary" means an affiliate of a corporation under the control of the corporation
4 directly or indirectly through one or more intermediaries.

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

7 2. This section does not prohibit the establishment, administration, and solicitation of
8 contributions to a separate and segregated fund to be utilized for political purposes by
9 a corporation, a cooperative corporation, a limited liability company, or an association.
10 It is unlawful for:

- 11 a. The person or persons controlling the fund to make contributions or expenditures
12 utilizing money or anything of value secured by physical force, job discrimination,
13 financial reprisals, or the threat of them; or utilize money from dues, fees,
14 treasury funds, or other money required as a condition of membership in an
15 association, or as a condition of employment; or utilize money obtained in any
16 commercial transaction. Moneys from fees, dues, treasury funds, or money
17 obtained in a commercial transaction may, however, be used to pay costs of
18 administration of the fund.
- 19 b. Any person soliciting an employee, a stockholder, a patron, a board member, or a
20 member for a contribution to the fund to fail to inform the employee or member of
21 the political purposes of the fund at the time of the solicitation or of the general
22 political philosophy intended to be advanced through committee activities.
- 23 c. Any person soliciting an employee or a member for a contribution to the fund to
24 fail to inform the employee or member at the time of the solicitation of the right to
25 refuse to contribute without any reprisal.
- 26 d. Any contribution to be accepted without keeping an accurate record of the
27 contributor and amount contributed and of amounts expended for political
28 purposes.
- 29 e. Any contribution to be accepted from any person who is not an employee, a
30 stockholder, a patron, a board member or a member of the corporation,
31 cooperative corporation, limited liability company, or association maintaining the

- 1 political action committee, except a corporation may accept a contribution from
2 an employee, a stockholder, a patron, a board member, or a member of an
3 affiliate or a subsidiary of the corporation.
- 4 f. Any expenditure made for political purposes to be reported under this section
5 before control of the expenditure has been released by the political action
6 committee except if there is a contract, a promise, or an agreement, expressed or
7 implied, to make such expenditure.