

October 2000

NORTH DAKOTA CENTURY CODE PROVISIONS RELATING TO CAMPAIGN CONTRIBUTIONS RECEIVED BY THE STATE TREASURER'S OFFICE PRESERVATION COMMITTEE

This memorandum summarizes various sections of North Dakota Century Code (NDCC) Chapter 16.1-08.1 relating to campaign contributions, the receipt and expenditure of such contributions, and requirements for the filing of campaign contribution statements in North Dakota. This memorandum includes, as attachments, campaign contribution statements and political committee registration forms filed with the Secretary of State's office by the State Treasurer's Office Preservation (STOP) Committee, a committee opposed to measure No. 3, which was defeated in the June 13, 2000, primary election. Measure No. 3 proposed to remove the requirement that the State Treasurer be an elected state officer, effective January 1, 2003.

The Legislative Council chairman, in a letter dated June 9, 2000, assigned to the Legislative Audit and Fiscal Review Committee the duty of obtaining information and reviewing the appropriateness of campaign contributions made to the STOP Committee by the National Association of State Treasurers and affiliated organizations.

CAMPAIGN CONTRIBUTION STATEMENTS

Section 16.1-08.1-03.1 provides that a person soliciting or accepting a contribution for the purpose of aiding or opposing a statewide measure must file a campaign contribution statement if a contribution in excess of \$100 is received from any contributor. For the purposes of NDCC Chapter 16.1-08.1, "contribution" is defined to include a gift or loan made for the purpose of aiding or opposing the passage of a statewide measure; and "person" is defined to include an individual, partnership, committee, association, corporation, or other organization or group of persons. The campaign contribution statement must include the name and mailing address of each contributor who contributed in excess of \$100, the amount of each reportable contribution, and the date each reportable contribution was received. The campaign contribution statement must be filed with the Secretary of State no later than the 12th day prior to the date of the election in which the measure appears for the period January 1 of that year through the 20th day prior to the date of the election. A complete statement for the entire year must be filed no later than January 31 of the following year. Attached as Appendix A is the campaign contribution statement

filed by the STOP Committee on June 1, 2000. A campaign contribution statement was filed, as required, with the Secretary of State's office by the STOP Committee 12 days prior to the date of the election.

Section 16.1-08.1-03.1 provides that a person accepting contributions for the purpose of promoting passage or defeat of a statewide measure may not accept a contribution of more than \$100 from an out-of-state person or political committee, unless the contribution is accompanied by a statement listing the name, address, and amount contributed by each person contributing more than \$100. Alternatively, the statement must indicate if no individual person contributed in excess of \$100. Attached as Appendix B are the six letters filed with the Secretary of State's office by the six out-of-state contributors to the STOP Committee. Five of the letters indicate that no individual contributed more than \$100 of the contribution. The sixth letter indicates the contribution came from the individual's personal account.

Section 16.1-08.1-04 provides that a supplemental statement must be filed if a contribution of \$500 or more is received from any individual contributor during the 20-day period prior to the election. The supplemental statement must be filed with the Secretary of State within 48 hours of the receipt of the contribution. Attached as Appendix C are the two supplemental campaign contribution statements filed with the Secretary of State's office by the STOP Committee. The supplemental campaign contribution statements indicate that the forms were completed within 48 hours of the receipt of the contributions and were received by the Secretary of State's office within 72 hours of the date of the receipt of the contributions.

Political Committee Registration

Section 16.1-08.1-03.2 requires a political committee and a person aiding or opposing a measure to register with the Secretary of State each calendar year in which a contribution is received.

The registration filed with the Secretary of State's office by the STOP Committee on February 28, 2000, is attached as Appendix D.

Certain Campaign Contributions Prohibited

Section 16.1-08.1-03.3 prohibits a corporation, cooperative corporation, limited liability company, or association from making a direct contribution to aid any

political party, political committee, or organization. Section 16.1-08.1-01 defines a "political committee" as any committee, club, association, or other group of persons which receives contributions or makes expenditures primarily for political purposes. "Political purposes" is defined to include any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office.

Because the STOP Committee was organized in opposition to a statewide measure, not a candidate for public office, it appears that the STOP Committee is not a political committee as defined in NDCC Chapter 16.1-08.1. Therefore, the prohibition in Section 16.1-08.1-03.3 likely does not apply to the STOP Committee or the contributions received from the National Association of State Treasurers and its regional divisions.

Expenditures for Other Than Political Purposes

Section 16.1-08.1-03.5 provides that corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions, other than for political purposes, to promote passage or defeat of a statewide measure, or to promote any general political philosophy deemed to be in the best interest of the employees, stockholders, patrons, or members of the entity. Any corporation, cooperative corporation, limited liability company, or association that receives contributions or spends money to aid or oppose a statewide measure, unless the expenditure is made to provide a contribution to another person promoting passage or defeat of a measure, must file a campaign contribution statement with the Secretary of State's office.

The contributions made by the National Association of State Treasurers and its regional divisions were made to the STOP Committee for the purpose of opposing a statewide measure, as allowed under Section 16.1-08.1-03.5. Consequently, no campaign contribution statement was required to be filed with the Secretary of State's office by the National Association of State Treasurers or its regional divisions unless the moneys contributed were initially received by the National Association of State Treasurers and its regional divisions as contributions for this purpose. The correspondence (Appendix B) filed with the Secretary of State's office by the National Association of State Treasurers, the Southern State Treasurers Association, the Western State Treasurer's Association, and the Midwestern Association of State Treasurers indicates that none of the moneys contributed to the STOP Committee by those entities were solicited for the purpose of opposing constitutional measure No. 3.

SUMMARY

Pursuant to Section 16.1-08.1-03.1, any person receiving a political contribution in excess of \$100 for the purpose of aiding or opposing a statewide measure must file a campaign contribution statement with the Secretary of State. The campaign contribution statement filed with the Secretary of State's office by the STOP Committee was filed 12 days prior to the date of the election, as required.

Section 16.1-08.1-03.1 also provides that a person accepting contributions for the purpose of promoting passage or defeat of a statewide measure may not accept a contribution of more than \$100 from an out-of-state person or political committee, unless the contribution is accompanied by a statement listing the name, address, and amount contributed by each person contributing more than \$100 or a statement indicating that no individual person contributed in excess of \$100. Six letters were filed with the Secretary of State's office by the six out-of-state contributors to the STOP Committee. Five of the letters indicate that no individual contributed more than \$100 of the contribution. The sixth letter indicates that the contribution came from the individual's personal account.

Section 16.1-08.1-03.3 prohibits a corporation, cooperative corporation, limited liability company, or association from making a direct contribution to aid any political party, political committee, or organization in this state. The STOP Committee does not fall within the definition of a political committee as defined in NDCC Chapter 16.1-08.1. Therefore, it appears that Section 16.1-08.1-03.3 does not apply to the STOP Committee or the contributions received from the National Association of State Treasurers and its regional divisions.

Section 16.1-08.1-04 provides that a supplemental statement must be filed if a contribution of \$500 or more is received from any individual contributor during the 20-day period prior to the election. The supplemental statement must be filed with the Secretary of State within 48 hours of the receipt of the contribution. The supplemental campaign contribution statements filed with the Secretary of State's office by the STOP Committee indicate that the forms were completed within 48 hours of the receipt of the contributions and were received by the Secretary of State's office within 72 hours of the date of the receipt of the contributions.

Section 16.1-08.1-03.5 provides that corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions to promote passage or defeat of initiated or referred measures, or to promote any general political philosophy deemed to be in the best interest of the employees, stockholders, patrons, or members of the entity. Any corporation, cooperative corporation, limited liability company, or association that receives contributions to promote passage or defeat of a

measure or spends money for that purpose, other than by providing a contribution to another person promoting passage or defeat of a statewide measure, must file a campaign contribution statement with the Secretary of State's office. The contributions made by the National Association of State Treasurers and its regional divisions were made to the STOP Committee for the purpose of opposing a statewide measure, as allowed under Section 16.1-08.1-03.5. Because the moneys

contributed were not initially received by the National Association of State Treasurers and its regional divisions as contributions for the purpose of promoting the passage or defeat of a measure, no campaign contribution statement was required to be filed with the Secretary of State's office by the National Association of State Treasurers or its regional divisions.

ATTACH:4