

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2073
(Judiciary Committee)
(At the request of the Secretary of State)

AN ACT to amend and reenact section 16.1-08.1-01, subsection 1 of section 16.1-08.1-03.3, and section 16.1-08.1-03.5 of the North Dakota Century Code, relating to the definition of direct expenditures and campaign contribution statements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

16.1-08.1-01. Definitions.

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

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
 - a. A person holding public office;
 - b. A person who has publicly declared that person's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
 - c. A person who has formed a campaign or other committee for that person's candidacy for public office;
 - d. A person who has circulated a nominating petition to have that person's name placed on the ballot; and
 - e. A person who has, in any manner, solicited or received a contribution for that person's candidacy for public office, whether before or after the election for that office.
3. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:

- a. A loan of money from a bank or other lending institution made in the regular course of business.
 - b. Time spent by volunteer campaign or political party workers.
 - c. Money spent by a candidate on the candidate's own behalf.
 - d. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
 - e. Money or anything of value received by a candidate in that person's personal capacity, including pursuant to a contract or agreement made for personal or private employment purposes, and not received for a political purpose or to influence the performance of that person's official duty.
 - f. Contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money.
4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations.
 5. "Direct expenditure" means an expenditure made by a corporation, cooperative corporation, limited liability company, or association for the specific purpose of promoting passage or defeat of an initiated or referred measure without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of a measure committee.
 6. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for the direct purpose of influencing the passage or defeat of a measure or the nomination for election, or election, of any individual to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
 - ~~6-7.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
 - ~~7-8.~~ "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
 - ~~8-9.~~ "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
 - a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making direct contributions for political purposes under section 16.1-08.1-03.3, and which solicits or receives contributions or makes expenditures for political purposes;
 - b. A candidate committee, established to support an individual candidate seeking statewide office, that solicits or receives contributions for political purposes;
 - c. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes;
 - d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes; and

e. A measure committee that solicits or receives contributions for the purpose of aiding or opposing a measure to be voted upon by the voters of the state.

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

~~40-11.~~ "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.

~~44-12.~~ "Public office" means every office to which persons can be elected by vote of the people under the laws of this state.

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

1. A corporation, cooperative corporation, limited liability company, or association may not make a direct contribution:
 - a. To aid any political party, political committee, or organization except that a direct contribution may be made to a measure committee as provided in section 16.1-08.1-03.5.
 - b. To aid any corporation, limited liability company, or association organized or maintained for political purposes as defined in this chapter.
 - c. To aid any candidate for public office or for nomination to public office.
 - d. For any political purpose or the reimbursement or indemnification of any person for money or property so used.
 - e. For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.

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

16.1-08.1-03.5. ~~Direct~~Allowable corporate contributions and expenditures - ~~Passage or defeat of a measure or state political party building funds - Report required.~~

1. ~~This chapter does not prohibit the exercise by corporations~~Corporations, cooperative corporations, limited liability companies, and associations ~~of the right to~~may make expenditures and contributions to a measure committee, as described in section 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred measures, ~~or.~~ Corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. ~~Any corporation, cooperative corporation, limited~~

~~liability company, or association that receives contributions pursuant to section 16.1-08.1-03.1 or spends money for the purpose of promoting passage or defeat of initiated or referred measures, other than a contribution to another person or measure committee promoting passage or defeat of an initiated or referred measure, shall file a statement pursuant to section 16.1-08.1-03.1 along with a statement listing the total amount of money spent for that purpose. The statements filed pursuant to section 16.1-08.1-03.1 must be filed with the secretary of state no later than the twelfth day before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the twentieth day before the date of the election. Statements showing the total amount of money spent for the purpose of promoting passage or defeat of initiated or referred measures must be filed with the secretary of state through the end of the calendar year in which the measure appeared on the ballot.~~

2. A corporation, cooperative corporation, limited liability company, or association may make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund. Money in the fund must be used exclusively by the state political party or nonprofit entity affiliated with or under the control of a state political party for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. A state political party or nonprofit entity affiliated with or under the control of a state political party receiving a donation under this subsection shall file a statement with the secretary of state no later than the thirty-first day of January of each calendar year. The statement must include the name and mailing address of each donor, the amount of each donation, the date each donation was received, all expenditures made from the fund during the previous calendar year, and cash on hand in the fund at the start and close of the reporting period. Any income and financial gain generated from a building purchased, maintained, or renovated from donations authorized under this subsection and not otherwise authorized by law must be deposited in the building fund and must be reported when the political party or nonprofit entity files the statement required under this subsection.
3. A corporation, cooperative corporation, limited liability company, or association may make a direct expenditure for the purpose of promoting passage or defeat of initiated or referred measures. A direct expenditure statement must be filed with the secretary of state within forty-eight hours after making the expenditure. The statement must include:
 - a. The full name of the corporation, cooperative corporation, limited liability company, or association;
 - b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
 - c. The name and telephone number of the person completing the report;
 - d. The title of the measure and whether the expenditure is made in support of or opposition to the measure;
 - e. The election date on which the measure either will appear or did appear on the ballot;
 - f. The amount of the expenditure;
 - g. The cumulative total amount of expenditures since the beginning of the calendar year in support of or opposition to the measure;
 - h. The printed name and signature of the person completing the report, attesting to the report being true, complete, and correct; and
 - i. The date on which the report was signed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2073.

Senate Vote: Yeas 45 Nays 2 Absent 0

House Vote: Yeas 88 Nays 4 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State