

Introduced by

Senators Luick, Nelson, Wardner

Representatives Karls, Paur, Thoreson

1 A BILL for an Act to create and enact section 16.1-08.1-03.13 of the North Dakota Century
2 Code, relating to campaign contribution statements required of initiated petition sponsoring
3 committees; to amend and reenact sections 16.1-08.1-01, 16.1-08.1-03.1, and 16.1-08.1-03.2,
4 subsection 1 of section 16.1-08.1-03.5, sections 16.1-08.1-03.7, 16.1-08.1-04, and
5 16.1-08.1-06.1 of the North Dakota Century Code, relating to campaign finance; and to repeal
6 section 16.1-08.1-03.12 of the North Dakota Century Code, relating to campaign contribution
7 statements required of political organizations.

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

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

11 **16.1-08.1-01. Definitions.**

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

- 13 1. "Association" means any club, association, union, brotherhood, fraternity, organization,
14 or group of any kind of two or more persons, including labor unions, trade
15 associations, professional associations, or governmental associations, which is united
16 for any purpose, business, or object and which assesses any dues, membership fees,
17 or license fees in any amount, or which maintains a treasury fund in any amount. The
18 term does not include corporations, cooperative corporations, limited liability
19 companies, political committees, or political parties.
- 20 2. "Candidate" means an individual who seeks nomination for election or election to
21 public office, and includes:
22 a. A person holding public office;

- 1 b. A person who has publicly declared that person's candidacy for nomination for
2 election or election to public office or has filed or accepted a nomination for public
3 office;
- 4 c. A person who has formed a campaign or other committee for that person's
5 candidacy for public office;
- 6 d. A person who has circulated a nominating petition to have that person's name
7 placed on the ballot; and
- 8 e. A person who has, in any manner, solicited or received a contribution for that
9 person's candidacy for public office, whether before or after the election for that
10 office.
- 11 3. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription,
12 loan, advance, deposit of money, or anything of value, made for the purpose of
13 influencing the nomination for election, or election, of any person to public office or
14 aiding or opposing the circulation or passage of a statewide initiative or referendum
15 petition or measure. The term also means a contract, promise, or agreement, express
16 or implied, whether or not legally enforceable, to make a contribution for any of the
17 above purposes. The term includes funds received by a candidate for public office or a
18 political party or committee which are transferred or signed over to that candidate,
19 party, or committee from another candidate, party, or political committee or other
20 source. The term "anything of value" includes any good or service of more than a
21 nominal value. The term "nominal value" means the cost, price, or worth of the good or
22 service is trivial, token, or of no appreciable value. The term "contribution" does not
23 include:
- 24 a. A loan of money from a bank or other lending institution made in the regular
25 course of business.
- 26 b. Time spent by volunteer campaign or political party workers.
- 27 c. Money spent by a candidate on the candidate's own behalf.
- 28 d. Money or anything of value received for commercial transactions, including rents,
29 advertising, or sponsorships made as a part of a fair market value bargained-for
30 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. "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. "Direct expenditure" means an expenditure made by a corporation, cooperative
11 corporation, limited liability company, or association for the specific purpose of
12 promoting passage or defeat of an initiated or referred measure without the express or
13 implied consent, authorization, or cooperation of, and not in concert with or at the
14 request or suggestion of a measure committee.
- 15 6. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment,
16 distribution, disbursement, outlay, or deposit of money or anything of value, except a
17 loan of money from a bank or other lending institution made in the regular course of
18 business, made for the direct purpose of influencing the passage or defeat of a
19 measure or the nomination for election, or election, of any individual to office. The term
20 also means a contract, promise, or agreement, express or implied, whether or not
21 legally enforceable, to make any expenditure and includes the transfer of funds by a
22 political committee to another political committee.
- 23 7. "Independent expenditure" means an expenditure expressly advocating the election or
24 defeat of a clearly defined candidate made by a corporation, cooperative corporation,
25 limited liability company, or association, if the expenditure is made without the
26 expressed or implied consent, authorization, or cooperation of, and not in concert with
27 or at the request or suggestion of, any candidate or any candidate's principal
28 campaign committee or agent.
- 29 8. "Patron" means a person who owns equity interest in the form of stock, shares, or
30 membership or maintains similar financial rights in a cooperative corporation.

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- 1 ~~8-9.~~ "Person" means an individual, partnership, political committee, association,
2 corporation, cooperative corporation, limited liability company, or other organization or
3 group of persons.
- 4 ~~9-10.~~ "Political committee" means any committee, club, association, or other group of
5 persons which receives contributions or makes expenditures for political purposes and
6 includes the following:
- 7 a. A political action committee, derived from a corporation, cooperative corporation,
8 limited liability company, or an association that is prohibited from making direct
9 contributions for political purposes under section 16.1-08.1-03.3, and which
10 solicits or receives contributions or makes expenditures for political purposes;
- 11 b. A candidate committee, established to support an individual candidate seeking
12 statewide office, that solicits or receives contributions for political purposes;
- 13 c. ~~A political~~ organization governed by ~~section 527~~ of the Internal Revenue Code
14 [~~26 U.S.C. 527~~]and registered with the federal election commission, which solicits
15 or receives contributions or makes expenditures for political purposes;
- 16 d. A multicandidate political committee, established to support multiple groups or
17 slates of candidates seeking public office, that solicits or receives contributions
18 for political purposes; and
- 19 e. A measure committee that solicits or receives contributions for the purpose of
20 aiding or opposing a measure to be voted upon by the voters of the state.
- 21 ~~40-11.~~ "Political party" means any association, committee, or organization which nominates a
22 candidate for election to any office which may be filled by a vote of the electors of this
23 state or any of its political subdivisions and whose name appears on the election ballot
24 as the candidate of such association, committee, or organization.
- 25 ~~44-12.~~ "Political purpose" means any activity undertaken in support of or in opposition to the
26 election or nomination of a candidate to public office and includes using "vote for",
27 "oppose", or any similar support or opposition language in any advertisement whether
28 the activity is undertaken by a candidate, a political committee, a political party, or any
29 person. In the period thirty days before a primary election and sixty days before a
30 special or general election, "political purpose" also means any activity in which a
31 candidate's name, office, district, or any term meaning the same as "incumbent" or

1 "challenger" is used in support of or in opposition to the election or nomination of a
2 candidate to public office. The term does not include activities undertaken in the
3 performance of a duty of a state office or any position taken in any bona fide news
4 story, commentary, or editorial or activities undertaken as part of an independent
5 expenditure as defined in this section.

6 ~~12-13.~~ "Public office" means every office to which persons can be elected by vote of the
7 people under the laws of this state.

8 **SECTION 2. AMENDMENT.** Section 16.1-08.1-03.1 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-08.1-03.1. Contributions statement required of persons and measure committees**
11 **circulating or promoting passage or defeat of initiated or referred measure.**

- 12 1. ~~At the time the sponsoring committee for an initiated measure petition submits signed~~
13 ~~petitions to the secretary of state, the committee also shall submit a statement~~
14 ~~disclosing the total amount of contributions received by the committee to aid the~~
15 ~~committee in drafting and circulating the petition, the name and mailing address of~~
16 ~~each person that contributed more than one hundred dollars in the aggregate to the~~
17 ~~sponsoring committee, the date each such contribution was received, and the total~~
18 ~~amount of expenditures made by the committee to aid in the drafting and circulation of~~
19 ~~the petition.~~
- 20 2. Any person or measure committee, as described in section 16.1-08.1-01, that is
21 soliciting or accepting a contribution for the purpose of aiding or opposing the
22 circulation or passage of a statewide initiative or referendum petition or measure
23 placed upon a statewide ballot by action of the legislative assembly at any election
24 shall file a statement in accordance with this subsection if the person has received any
25 contribution in excess of one hundred dollars. The statement must include the name
26 and mailing address of each person that contributed in excess of one hundred dollars
27 to the person, the amount of each reportable contribution, and the date each
28 reportable contribution was received. The statement must include the name and
29 mailing address of each recipient of an expenditure exceeding one hundred dollars in
30 the aggregate, the amount of each reportable expenditure, and the date the
31 expenditure was made.

1 ~~3-2.~~ A person or measure committee that is soliciting or accepting a contribution for the
2 purpose of aiding or opposing the circulation or passage of a statewide initiative or
3 referendum petition or measure placed upon a statewide ballot by action of the
4 legislative assembly may not accept a contribution of more than one hundred dollars
5 from an out-of-state person or political committee unless the contribution is
6 accompanied by a certified statement from the contributor listing the name, address,
7 and amount contributed by each person that contributed more than one hundred
8 dollars of the contribution. The statement must indicate if no person contributed in
9 excess of one hundred dollars of the out-of-state person's or political committee's
10 overall contribution. The certified statement must also list the occupation, employer,
11 and principal place of business for each individual who contributed more than one
12 hundred dollars of the contribution. The person soliciting or accepting a contribution for
13 the purpose of aiding the circulation of a statewide initiative or referendum petition or
14 of promoting passage or defeat of a statewide initiated or referred measure shall
15 include this statement with the contribution statement required to be filed under
16 subsection 21.

17 ~~4-3.~~ The statement required of a person or measure committee under subsection 21 must
18 be filed with the secretary of state no later than the ~~twelfth~~thirty-second day before the
19 date of the election in which the measure appears or would have appeared on the
20 ballot complete from the beginning of that calendar year through the ~~twentieth~~fortieth
21 day before the date of the election. A complete statement for the entire calendar year
22 for each statement required to be filed under ~~subsections 2 and 3~~this section must be
23 filed no later than the thirty-first day of January of the following year. Even if a person
24 required to report according to this section has not received any contributions in
25 excess of one hundred dollars during the reporting period, the person shall file a
26 statement as required by this chapter. A statement filed according to ~~subsections 2-~~
27 ~~and 3~~this section during the reporting period must show the following:

- 28 a. The gross total of all contributions received and expenditures made in excess of
29 one hundred dollars;
- 30 b. The gross total of all contributions received and expenditures made of one
31 hundred dollars, or less; and

1 c. The cash on hand in the filer's account at the start and close of the reporting
2 period.

3 **SECTION 3. AMENDMENT.** Section 16.1-08.1-03.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-08.1-03.2. Political committee registration.**

6 A statewide, judicial, or legislative candidate or political committee as defined in section
7 16.1-08.1-01 shall register its name, address, and its agent's name and address with the
8 secretary of state each calendar year in which it receives any contribution. The registration must
9 be completed within fifteen business days of the receipt of any contribution or expenditure made
10 ~~and must be submitted with a registration fee of twenty-five dollars.~~ A political committee that
11 organizes and registers according to federal law and makes a disbursement in excess of two
12 hundred dollars to, on behalf of, or in opposition to a nonfederal candidate seeking public office,
13 a political party, or political committee in this state is not required to register as a political
14 committee according to this section if the political committee reports according to
15 section 16.1-08.1-03.7. Registration under this section does not reserve the name for exclusive
16 use nor does it constitute registration of a trade name under chapter 47-25.

17 **SECTION 4. AMENDMENT.** Subsection 1 of section 16.1-08.1-03.5 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 1. Corporations, cooperative corporations, limited liability companies, and associations
20 may make contributions to a measure committee, as described in section
21 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred
22 measures. Corporations, cooperative corporations, limited liability companies, and
23 associations may make independent expenditures as described in section
24 16.1-08.1-01, or may make expenditures and contributions for promoting any general
25 political philosophy or belief deemed in the best interest of the employees,
26 stockholders, patrons, or members of the corporation, cooperative corporation, limited
27 liability company, or association other than a "political purpose" as defined by this
28 chapter.

29 **SECTION 5. AMENDMENT.** Section 16.1-08.1-03.7 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **16.1-08.1-03.7. Political committees that organize and register according to federal**
2 **law that make disbursements to, on behalf of, or in opposition to nonfederal candidates,**
3 **political parties, and political committees.**

4 A political committee that organizes and registers according to federal law and makes a
5 disbursement in excess of two hundred dollars to, on behalf of, or in opposition to a nonfederal
6 candidate seeking public office or to a political party or political committee in this state shall file
7 a copy of that portion of the committee's federal report detailing the disbursement made ~~to the~~
8 ~~candidate~~. The political committee shall file a copy of the committee's federal report with the
9 secretary of state at the time of filing the report with the applicable federal agency. The report
10 must include:

- 11 1. The name, mailing address, and treasurer of the political committee;
- 12 2. The recipient's name and mailing address; and
- 13 3. The date and amount of the disbursement made.

14 **SECTION 6.** Section 16.1-08.1-03.13 of the North Dakota Century Code is created and
15 enacted as follows:

16 **16.1-08.1-03.13. Contribution statements required of initiated petition sponsoring**
17 **committees.**

- 18 1. At the time the sponsoring committee for an initiated petition requests approval of the
19 secretary of state to circulate petitions for the purpose of placing a measure on the
20 ballot, the committee also shall submit a statement disclosing the contributions
21 received and the expenditures made for the purpose of drafting the petition.
- 22 2. At the time the sponsoring committee for an initiated petition submits signed petitions
23 to the secretary of state, the committee also shall submit a statement disclosing the
24 contributions received and expenditures made for the purpose of circulating the
25 petition.
- 26 3. If December thirty-first falls between the date the secretary of state approves the
27 petition for circulation and the date the signed petitions are submitted to the secretary
28 of state, a complete statement for the calendar year shall be filed no later than the
29 thirty-first day of January of the following year.

- 1 4. The sponsoring committee also shall file a complete statement for the calendar year in
2 which the measure appeared or was to appear on the ballot. This statement shall be
3 filed no later than the thirty-first day of January of the following year.
- 4 5. A sponsoring committee may not accept a contribution of more than one hundred
5 dollars from an out-of-state person or political committee unless the contribution is
6 accompanied by a certified statement from the contributor listing the name, address,
7 and amount contributed by each person that contributed more than one hundred
8 dollars of the contribution. The statement must indicate if no person contributed in
9 excess of one hundred dollars of the out-of-state person's or political committee's
10 overall contribution. The certified statement must also list the occupation, employer,
11 and principal place of business for each individual who contributed more than one
12 hundred dollars of the contribution.
- 13 6. The statements required of this section shall include:
- 14 a. The gross total of all contributions received and expenditures made in excess of
15 one hundred dollars;
- 16 b. The gross total of all contributions received and expenditures made of one
17 hundred dollars or less;
- 18 c. The cash on hand in the filer's account at the start and close of the reporting
19 period;
- 20 d. The name and mailing address of each person that contributed in excess of one
21 hundred dollars to the sponsoring committee;
- 22 e. The amount of each reportable contribution;
- 23 f. The date each reportable contribution was received;
- 24 g. The name and mailing address of each recipient of an expenditure exceeding
25 one hundred dollars in the aggregate;
- 26 h. The amount of each reportable expenditure; and
- 27 i. The date the expenditure was made.

28 **SECTION 7. AMENDMENT.** Section 16.1-08.1-04 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **16.1-08.1-04. Supplemental statement required on large contributions received after**
2 **original statement - Filing time.**

3 If any candidate, political party, or political committee other than a measure committee
4 receives contributions in excess of five hundred dollars in the aggregate ~~in the twenty-day~~
5 ~~period before~~within the nineteen days immediately preceding any election from any individual
6 contributor, that candidate, political party, political committee, or person shall make and file a
7 supplemental statement in the same form as required by section 16.1-08.1-02, 16.1-08.1-03,
8 ~~16.1-08.1-03.1~~, 16.1-08.1-03.3, 16.1-08.1-03.8, 16.1-08.1-03.9, 16.1-08.1-03.10, or
9 16.1-08.1-03.11 stating the name and street address of the contributor and the aggregated
10 amount of the contribution and file the statement in the appropriate office within forty-eight hours
11 of the receipt of the contribution.

12 If any measure committee receives contributions in excess of five hundred dollars in the
13 aggregate within the thirty-nine days immediately preceding the election in which the measure
14 is to be on the ballot from any individual contributor, that measure committee shall make and file
15 a supplemental statement in the same form as required by section 16.1-08.1-03.1 stating the
16 name and street address of the contributor and the aggregated amount of the contribution and
17 file the statement with the secretary of state within forty-eight hours of the receipt of the
18 contribution.

19 **SECTION 8. AMENDMENT.** Section 16.1-08.1-06.1 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **16.1-08.1-06.1. Filing officer to charge and collect fees for late filing.**

- 22 1. If a statement, ~~registration~~, or report required to be filed according to this chapter is not
23 filed within the prescribed time, the filing officer to whom the report was to be filed is
24 authorized to charge and collect a late fee as follows:
- 25 a. Within six days after the prescribed time, twenty-five dollars;
 - 26 b. Within eleven days after the prescribed time, fifty dollars; and
 - 27 c. Thereafter, one hundred dollars.
- 28 2. A filing officer may require an amendment to be filed for any statement, ~~registration~~, or
29 report that is incorrect or incomplete. The amendment must be filed with the filing
30 officer within ten business days after the amendment has been requested in writing. If

1 an amendment is not filed within the prescribed time, the filing officer is authorized to
2 charge and collect a late fee as follows:

- 3 a. Within six days after the date the amendment was due, fifty dollars;
4 b. Within eleven days after the date the amendment was due, one hundred dollars;
5 and
6 c. Thereafter, two hundred dollars.

7 3. The filing officer may collect any payment obligation arising out of this section by civil
8 action or by assignment to a collection agency, with any costs of collection to be
9 added to the amount owed and to be paid by the delinquent filer.

10 **SECTION 9. REPEAL.** Section 16.1-08.1-03.12 of the North Dakota Century Code is
11 repealed.