

Sixty-third  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2255**

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:

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- 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.

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- 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:

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- 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          10.11. "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          11.12. "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.

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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

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- 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.