

Introduced by

Senators Oban, Miller, Poolman

Representatives Boschee, Louser, Schneider

1 A BILL for an Act to create and enact a new section to chapter 16.1-08.1 of the North Dakota  
2 Century Code, relating to campaign contributions through a conduit; to amend and reenact  
3 sections 16.1-08.1-01 and 16.1-08.1-06 of the North Dakota Century Code, relating to  
4 campaign contributions and reporting of contributions through a conduit; and to provide a  
5 penalty.

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

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

9 **16.1-08.1-01. Definitions.**

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

- 11 1. "Affiliate" means an organization that controls, is controlled by, or is under common  
12 control with another organization. For purposes of this definition, control means the  
13 possession, direct or indirect, of the power to direct or cause the direction of the  
14 management and policies of an organization, whether through the ownership of voting  
15 securities, by contract other than a commercial contract for goods or nonmanagement  
16 services, or otherwise. Control is presumed to exist if an organization, directly or  
17 indirectly, owns, controls, holds with the power to vote, or holds proxies representing  
18 fifty percent or more of the voting securities of any other organization.
- 19 2. "Association" means any club, association, union, brotherhood, fraternity, organization,  
20 or group of any kind of two or more persons, including labor unions, trade  
21 associations, professional associations, or governmental associations, which is united  
22 for any purpose, business, or object and which assesses any dues, membership fees,  
23 or license fees in any amount, or which maintains a treasury fund in any amount. The

1 term does not include corporations, cooperative corporations, limited liability  
2 companies, political committees, or political parties.

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

5 a. An individual holding public office;

6 b. An individual who has publicly declared that individual's candidacy for nomination  
7 for election or election to public office or has filed or accepted a nomination for  
8 public office;

9 c. An individual who has formed a campaign or other committee for that individual's  
10 candidacy for public office;

11 d. An individual who has circulated a nominating petition to have that individual's  
12 name placed on the ballot; and

13 e. An individual who has, in any manner, solicited or received a contribution for that  
14 individual's candidacy for public office, whether before or after the election for  
15 that office.

16 4. "Conduit" means a person that is not a political committee or candidate and which  
17 receives a contribution of money and transfers the contribution to a candidate, political  
18 party, or political committee when the contribution is designated specifically for the  
19 candidate, political party, or political committee and the person has no discretion as to  
20 the recipient and the amount transferred. The term includes a transactional  
21 intermediary, including a credit card company, a financial institution, or a money  
22 transfer service that pays or transfers money to a candidate on behalf of another  
23 person.

24 5. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription,  
25 loan, advance, deposit of money, or anything of value, made for the purpose of  
26 influencing the nomination for election, or election, of any person to public office or  
27 aiding or opposing the circulation or passage of a statewide initiative or referendum  
28 petition or measure. The term also means a contract, promise, or agreement, express  
29 or implied, whether or not legally enforceable, to make a contribution for any of the  
30 above purposes. The term includes funds received by a candidate for public office or a  
31 political party or committee which are transferred or signed over to that candidate,

1 party, or committee from another candidate, party, or political committee or other  
2 source including a conduit. The term "anything of value" includes any good or service  
3 of more than a nominal value. The term "nominal value" means the cost, price, or  
4 worth of the good or service is trivial, token, or of no appreciable value. The term  
5 "contribution" does not include:

- 6 a. A loan of money from a bank or other lending institution made in the regular  
7 course of business.
- 8 b. Time spent by volunteer campaign or political party workers.
- 9 c. Money spent by a candidate on the candidate's own behalf.
- 10 d. Money or anything of value received for commercial transactions, including rents,  
11 advertising, or sponsorships made as a part of a fair market value bargained-for  
12 exchange.
- 13 e. Money or anything of value received by a candidate in that person's personal  
14 capacity, including pursuant to a contract or agreement made for personal or  
15 private employment purposes, and not received for a political purpose or to  
16 influence the performance of that person's official duty.
- 17 f. Contributions of products or services for which the actual cost or fair market  
18 value are reimbursed by a payment of money.
- 19 g. An independent expenditure.

20 5-6. "Cooperative corporations", "corporations", and "limited liability companies" are as  
21 defined in this code, and for purposes of this chapter "corporations" includes nonprofit  
22 corporations. However, if a political committee, the only purpose of which is accepting  
23 contributions and making expenditures for a political purpose, incorporates for liability  
24 purposes only, the committee is not considered a corporation for the purposes of this  
25 chapter.

26 6-7. "Expenditure" means:

- 27 a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution,  
28 disbursement, outlay, or deposit of money or anything of value, except a loan of  
29 money from a bank or other lending institution made in the regular course of  
30 business, made for a political purpose or for the purpose of influencing the  
31 passage or defeat of a measure.

1           b. A contract, promise, or agreement, express or implied, whether or not legally  
2           enforceable, to make any expenditure.

3           c. The transfer of funds by a political committee to another political committee.

4           d. An independent expenditure.

5     ~~7-8.~~ "Incidental committee" means a committee, club, association, or other group of  
6           persons that makes a contribution or expenditure, but for which making contributions  
7           and expenditures for political purposes is not its primary purpose.

8     ~~8-9.~~ "Independent expenditure" means an expenditure made for a political purpose or for  
9           the purpose of influencing the passage or defeat of a measure if the expenditure is  
10          made without the express or implied consent, authorization, or cooperation of, and not  
11          in concert with or at the request or suggestion of, any candidate or a candidate  
12          committee or measure committee.

13    ~~9-10.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or  
14          membership or maintains similar financial rights in a cooperative corporation.

15    ~~10-11.~~ "Person" means an individual, partnership, political committee, association,  
16          corporation, cooperative corporation, limited liability company, or other organization or  
17          group of persons.

18    ~~11-12.~~ "Political committee" means any committee, club, association, or other group of  
19          persons which receives contributions or makes expenditures for political purposes and  
20          includes the following:

21          a. A political action committee, derived from a corporation, cooperative corporation,  
22               limited liability company, or an association that is prohibited from making a  
23               contribution for political purposes under section 16.1-08.1-03.5, and which solicits  
24               or receives contributions or makes expenditures for political purposes;

25          b. A candidate committee, established to support an individual candidate seeking  
26               statewide office, that solicits or receives contributions for political purposes;

27          c. A political organization governed by the Internal Revenue Code and registered  
28               with the federal election commission, which solicits or receives contributions or  
29               makes expenditures for political purposes;

- 1 d. A multicandidate political committee, established to support multiple groups or
- 2 slates of candidates seeking public office, that solicits or receives contributions
- 3 for political purposes;
- 4 e. A measure committee that solicits or receives contributions for the purpose of
- 5 aiding or opposing a measure to be voted upon by the voters of the state; and
- 6 f. An incidental committee.

7 ~~12.13.~~ "Political party" means any association, committee, or organization which nominates a  
8 candidate for election to any office which may be filled by a vote of the electors of this  
9 state or any of its political subdivisions and whose name appears on the election ballot  
10 as the candidate of such association, committee, or organization.

11 ~~13.14.~~ "Political purpose" means any activity undertaken in support of or in opposition to the  
12 election or nomination of a candidate to public office and includes using "vote for",  
13 "oppose", or any similar support or opposition language in any advertisement whether  
14 the activity is undertaken by a candidate, a political committee, a political party, or any  
15 person. In the period thirty days before a primary election and sixty days before a  
16 special or general election, "political purpose" also means any activity in which a  
17 candidate's name, office, district, or any term meaning the same as "incumbent" or  
18 "challenger" is used in support of or in opposition to the election or nomination of a  
19 candidate to public office. The term does not include activities undertaken in the  
20 performance of a duty of a state office or any position taken in any bona fide news  
21 story, commentary, or editorial.

22 ~~14.15.~~ "Public office" means every office to which an individual can be elected by vote of the  
23 people under the laws of this state.

24 ~~15.16.~~ "Subsidiary" means an affiliate of a corporation under the control of the corporation  
25 directly or indirectly through one or more intermediaries.

26 **SECTION 2. AMENDMENT.** Section 16.1-08.1-06 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **16.1-08.1-06. Contributions and expenditure statement requirements.**

- 29 1. Any statement required by this chapter to be filed with the secretary of state must be:
- 30 a. Deemed properly filed when electronically delivered to the secretary of state
- 31 within the prescribed time and in the format established by the secretary of state.

1           If the secretary of state does not receive a statement, a duplicate of the  
2           statement must be promptly filed upon notice by the secretary of state of its  
3           nonreceipt. After a statement has been filed, the secretary of state may request  
4           or accept written clarification along with an amended statement from a candidate,  
5           political party, or political committee filing the statement when discrepancies,  
6           errors, or omissions on the statement are discovered by the secretary of state,  
7           the candidate, political party, or political committee filing the statement, or by any  
8           interested party reciting a lawful reason for requesting clarification and an  
9           amendment be made. When requesting an amended statement, the secretary of  
10          state shall establish a reasonable period of time, not to exceed ten days, agreed  
11          to by the candidate, political party, or political committee, for filing the amended  
12          statement with the secretary of state.

13          b.    Preserved by the secretary of state for a period of ten years from the date of  
14          filing. The statement is to be considered a part of the public records of the  
15          secretary of state's office and must be open to public inspection.

16          2.    In determining the amount of individual contributions from any contributor, all amounts  
17          received from the same contributor during the reporting period must be aggregated to  
18          report an overall total contribution for the purposes of the statements required by this  
19          chapter. Aggregate contributions must reference the date of the most recent  
20          contribution. Contributions made separately by different persons from joint accounts  
21          are considered separate contributions for reporting purposes.

22          3.    In reporting a contribution received through a conduit, a candidate, political party, or  
23          political committee shall list each reportable contribution identifying the person that  
24          submitted the contribution to the conduit and provide the required information  
25          regarding the contribution from that person rather than identifying the conduit as the  
26          contributor.

27          4.    Any statement and data filed electronically must be made available on the internet to  
28          the public free of charge within twenty-four hours after filing.

29          4.5.    Unless otherwise provided by law, any candidate, political party, committee, or person  
30          may not be charged a fee for filing any statement with the secretary of state under this  
31          chapter.

1       **SECTION 3.** A new section to chapter 16.1-08.1 of the North Dakota Century Code is  
2 created and enacted as follows:

3       **Conduit required to provide detailed contribution information to recipient.**

4       A conduit that transfers any contribution to a candidate, political party, or political committee  
5 shall provide the recipient of the contribution a detailed statement that lists the name and  
6 address of each individual contributor, the amount of each contribution, and the date each  
7 contribution was received. The conduit shall provide the statement to the candidate, political  
8 party, or political committee in a manner to allow the candidate, political party, or political  
9 committee to file any statement required to be filed under this chapter.