

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1337

Introduced by

Representatives B. Thoreson, Belter, Keiser

Senators Klein, G. Nelson, Stenehjem

1 A BILL for an Act to amend and reenact sections 16.1-08.1-01 and 16.1-08.1-03.3 of the North
2 Dakota Century Code, relating to definitions with respect to campaign contributions; and to
3 provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 16.1-08.1-01 of the 1999 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **16.1-08.1-01. Definitions.** As used in this chapter, unless the context otherwise
8 requires:

- 9 1. "Association" means any club, association, union, brotherhood, fraternity,
10 organization, or group of any kind of two or more persons, including labor unions,
11 trade associations, professional associations, or governmental associations, which
12 is united for any purpose, business, or object and which assesses any dues,
13 membership fees, or license fees in any amount, or which maintains a treasury
14 fund in any amount. The term does not include corporations, cooperative
15 corporations, limited liability companies, political committees, or political parties.
- 16 2. "Candidate" means an individual who seeks nomination for election or election to
17 public office.
- 18 3. "Contribution" means a gift, subscription, loan, advance, ~~or~~ deposit or payment of
19 money, salary, wages, or dues, made for the purpose of influencing the nomination
20 for election, or election, of any person to public office or aiding or opposing the
21 circulation or passage of a statewide initiative or referendum petition or measure.
22 The term also means a contract, promise, or agreement, express or implied,
23 whether or not legally enforceable, to make a contribution for any of the above
24 purposes. The term includes funds received by a candidate for public office or a

- 1 political party or committee which are transferred or signed over to that candidate,
2 party, or committee from another candidate, party, or political committee or other
3 source except as provided in subdivision d. The term does not include:
- 4 a. A loan of money from a bank or other lending institution made in the regular
5 course of business.
 - 6 b. Time spent by volunteer campaign or political party workers.
 - 7 c. Money spent by a candidate on the candidate's own behalf.
 - 8 d. Any money received by a candidate for legislative office which is immediately
9 transferred or signed over to a district committee of a political party within
10 thirty days of the candidate receiving the money. The district committee of
11 the political party shall report a transfer of this kind as a contribution
12 according to section 16.1-08.1-03 and shall show the origin of the contribution
13 to the legislative candidate.
 - 14 e. Charitable contributions or commercial transactions.
 - 15 f. Money spent by a corporation, cooperative corporation, limited liability
16 company, or association to disseminate information not related to a political
17 purpose to its shareholders, employees, or members.
- 18 4. "Cooperative corporations", "corporations", and "limited liability companies" are as
19 defined in this code.
- 20 5. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or
21 gift of money or property, except a loan of money from a bank or other lending
22 institution made in the regular course of business, made for the purpose of
23 influencing the nomination for election, or election, of any person to office. The
24 term also means a contract, promise, or agreement, express or implied, whether or
25 not legally enforceable, to make any expenditure and includes the transfer of funds
26 by a political committee to another political committee.
- 27 6. "Patron" means a person who owns equity interest in the form of stock, shares, or
28 membership or maintains similar financial rights in a cooperative corporation.
- 29 7. "Person" means an individual, partnership, committee, association, corporation,
30 cooperative corporation, limited liability company, or other organization or group of
31 persons.

- 1 8. "Political committee" means any committee, club, association, or other group of
2 persons which receives contributions or makes expenditures primarily for political
3 purposes.
- 4 9. "Political party" means any association, committee, or organization which
5 nominates a candidate for election to any office which may be filled by a vote of
6 the electors of this state or any of its political subdivisions and whose name
7 appears on the election ballot as the candidate of such association, committee, or
8 organization.
- 9 10. "Political purpose" means any activity undertaken in support of or in opposition to
10 the election or nomination of a candidate to public office whether the activity is
11 undertaken by a candidate, a political committee, a political party, or any person.
12 The term does not include activities undertaken in the performance of a duty of a
13 state office.
- 14 11. "Public office" means every statewide or legislative office to which persons can be
15 elected by vote of the people under the laws of this state.
- 16 12. "Union" means an association of employees which has as its primary purpose the
17 promotion of the economic interests of its members as wage earners and the term
18 means a labor organization freely chosen by the majority of the employees in a
19 bargaining group to represent the employees in contract negotiations and
20 administration and handling of grievances.

21 **SECTION 2. AMENDMENT.** Section 16.1-08.1-03.3 of the 1999 Supplement to the
22 North Dakota Century Code is amended and reenacted as follows:

23 **16.1-08.1-03.3. Campaign contributions by corporations, cooperative**
24 **corporations, limited liability companies, and associations prohibited - Violation -**
25 **Penalty.**

- 26 1. A corporation, cooperative corporation, limited liability company, or association
27 may not make a direct contribution:
- 28 a. To aid any political party, political committee, or organization.
- 29 b. To aid any corporation, limited liability company, or association organized or
30 maintained for political purposes.
- 31 c. To aid any candidate for political office or for nomination to political office.

- 1 d. For any political purpose or the reimbursement or indemnification of any
2 person for money or property so used.
- 3 e. For the influencing of any measure before the legislative assembly, except in
4 accordance with chapter 54-05.1.
- 5 2. This section does not prohibit the establishment, administration, and solicitation of
6 contributions to a separate and segregated fund to be utilized for political purposes
7 by a corporation, cooperative corporation, limited liability company, or association.
8 It is unlawful for:
- 9 a. The person or persons controlling the fund to make contributions or
10 expenditures utilizing money or anything of value secured by physical force,
11 job discrimination, financial reprisals, or the threat of them; or utilize money
12 from dues, fees, treasury funds, or other money required as a condition of
13 membership in an association, or as a condition of employment; or utilize
14 money obtained in any commercial transaction. Moneys from fees, dues,
15 treasury funds, or money obtained in a commercial transaction may, however,
16 be used to pay costs of administration of the fund.
- 17 b. Any person soliciting an employee, stockholder, patron, or member for a
18 contribution to the fund to fail to inform the employee or member of the
19 political purposes of the fund at the time of the solicitation or of the general
20 political philosophy intended to be advanced through committee activities.
- 21 c. Any person soliciting an employee or member for a contribution to the fund to
22 fail to inform the employee or member at the time of the solicitation of the
23 right to refuse to contribute without any reprisal.
- 24 d. Any contribution to be accepted without keeping an accurate record of the
25 contributor and amount contributed and of amounts expended for political
26 purposes.
- 27 e. Any contribution to be accepted from any person who is not an employee,
28 stockholder, patron, or member of the corporation, cooperative corporation,
29 limited liability company, or association maintaining the political committee.
- 30 f. Any expenditure, except a contract, promise, or agreement, express or
31 implied, to make any expenditure, made for political purposes to be reported

- 1 under this section before control of the expenditure has been released by the
2 political committee.
- 3 3. An individual who does not authorize a contribution to a segregated fund under this
4 section may not have the individual's dues or membership fees raised as a result
5 of the declined contribution.
- 6 4. Before withholding or diverting a portion of an employee's or member's wages,
7 salary, or other compensation for a contribution to a segregated fund, an
8 association shall obtain a voluntary written authorization from the employee or
9 member on a form prescribed or authorized by the secretary of state. Unless
10 revoked by an employee or member giving thirty days written notice, the
11 authorization is valid for one calendar year. The employee or member shall
12 include on the authorization form the total amount withheld from the employee's or
13 member's wages, salary, or other compensation as a contribution to the
14 segregated fund. The secretary of state shall ensure that the authorization form
15 includes a statement that includes the following information:
- 16 a. The authorization form is required by law;
17 b. Contributions may not be obtained by use of coercion or physical force,
18 contributions may not be a condition of employment or membership, and
19 contributions may not be secured by threats of job discrimination or financial
20 reprisals; and
- 21 c. The employee is entitled to a copy of the signed authorization form.
- 22 5. The labor commissioner, with the advice and consent of the secretary of state,
23 shall include on the wage and working conditions order prepared and distributed
24 by the labor commissioner a summary of the rights of employees under this
25 section beginning with the next order issued by the commissioner after the
26 effective date of this Act.
- 27 6. Upon receipt of a complaint from an employee or member alleging a violation of
28 subsection 4, the secretary of state shall refer the complaint to the labor
29 commissioner for investigation under chapter 34-14. If the commissioner
30 determines a claim to have merit, the employee or member bringing the complaint
31 is entitled to collect an amount equal to three times the amount deducted from the

1 employee's or member's wages, salary, or other compensation from the person
2 found to be in violation of this section.

3 7. All political committees formed for the purpose of administering the segregated
4 fund provided for in this section shall file a statement showing the name and
5 mailing address of each contributor of an amount in excess of two hundred dollars
6 in the aggregate for the reporting period and a listing of all expenditures of an
7 amount in excess of two hundred dollars in the aggregate made for political
8 purposes with the secretary of state. The statement must include the amount of
9 each reportable contribution and the date it was received and the amount of each
10 reportable expenditure and the date it was made. A yearend statement covering
11 the entire calendar year must be filed no later than the thirty-first day of the
12 following year. A preelection statement must be filed no later than the twelfth day
13 before any primary, special, or general election and must be complete from the
14 beginning of the calendar year through the twentieth day before the election.

15 4- 8. A person may not make a payment of that person's money or of another person's
16 money to any other person for a political purpose in any name other than that of
17 the person who supplies the money and a person may not knowingly receive the
18 payment nor enter nor cause the payment to be entered in that person's account or
19 record in any name other than that of the person by whom it actually was
20 furnished.

21 5- 9. If an officer, employee, agent, attorney, or other representative of a corporation,
22 cooperative corporation, limited liability company, or association makes any
23 contribution prohibited by this section out of corporate, cooperative corporation,
24 limited liability company, or association funds or otherwise violates this section, it is
25 prima facie evidence of a violation by the corporation, cooperative corporation,
26 limited liability company, or association.

27 6- 10. A violation of this section may be prosecuted in the county where the contribution
28 is made or in any county in which it has been paid or distributed.

29 7- 11. It is a class A misdemeanor for an officer, director, stockholder, manager,
30 governor, member, attorney, agent, or representative of any corporation,
31 cooperative corporation, limited liability company, or association to violate this

1 section or to counsel or consent to any violation. Any person who solicits or
2 knowingly receives any contribution in violation of this section is guilty of a class A
3 misdemeanor.

4 ~~8.~~ 12. Any officer, director, stockholder, manager, governor, member, attorney, agent, or
5 representative who makes, counsels, or consents to the making of a contribution in
6 violation of this section is liable to the company, corporation, limited liability
7 company, or association for the amount so contributed.