Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2299
(Senators Oban, Miller, Poolman)
(Representatives Boschee, Louser, Schneider)

AN ACT to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to campaign contributions through a conduit; to amend and reenact sections 16.1-08.1-01 and 16.1-08.1-06 of the North Dakota Century Code, relating to campaign contributions and reporting of contributions through a conduit; and to provide a penalty.

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. "Affiliate" means an organization that controls, is controlled by, or is under common control with another organization. For purposes of this definition, control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if an organization, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing fifty percent or more of the voting securities of any other organization.

2. "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.

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

   a. An individual holding public office;

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

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

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

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

4. <u>"Conduit" means a person that is not a political party, political committee, or candidate and which receives a contribution of money and transfers the contribution to a candidate, political</u>

party, or political committee when the contribution is designated specifically for the candidate, political party, or political committee and the person has no discretion as to the recipient and the amount transferred. The term includes a transactional intermediary, including a credit card company or a money transfer service that pays or transfers money to a candidate on behalf of another person.

5. "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 including a conduit. 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.

   g. An independent expenditure.

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

~~6.~~7. "Expenditure" means:

   a. 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 a political purpose or for the purpose of influencing the passage or defeat of a measure.

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

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

   d. An independent expenditure.

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

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

~~9.~~10. "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.

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

~~11.~~12. "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 a contribution for political purposes under section 16.1-08.1-03.5, 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. A political organization governed by the Internal Revenue Code and registered with the federal election commission, 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;

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; and

f. An incidental committee.

~~12.~~13. "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.

~~13.~~14. "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.

~~14.~~15. "Public office" means every office to which an individual can be elected by vote of the people under the laws of this state.

~~15.~~16. "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.

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

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

1. Any statement required by this chapter to be filed with the secretary of state must be:

   a. Deemed properly filed when electronically delivered to the secretary of state within the prescribed time and in the format established by the secretary of state. If the secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.

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

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

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

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

~~4.~~5. Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter.

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

Conduit required to provide detailed contribution information to recipient.

A conduit that transfers any contribution to a candidate, political party, or political committee shall provide the recipient of the contribution a detailed statement that lists the name and address of each individual contributor, the amount of each contribution, and the date each contribution was received. The conduit also shall include on the statement the occupation, employer, and principal place of business of each contributor, or the political committee if not already registered according to state or federal law, which contributed five thousand dollars or more in the aggregate during a reporting period applicable to the candidate, political party, or political committee. The conduit shall provide the

statement to the candidate, political party, or political committee in a manner to allow the candidate, political party, or political committee to file any statement required to be filed under this chapter.

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-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2299.

Senate Vote:	Yeas 46	Nays 0	Absent 1
House Vote:	Yeas 90	Nays 0	Absent 4

Secretary of the Senate

Received by the Governor at 10:06 A M. on April 7, 2015.

Approved at 11:57 A.M. on April 8, 2015.

Governor

Filed in this office this 8th day of April, 2015,

at 3:36 o'clock P M.

Secretary of State