

2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1431

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1431
1/26/2017
27499

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the legislative ethics committee; and to provide for a legislative management study

Minutes:

Attachments 1-5

Chairman Kasper opened the hearing on HB 1431.

Rep. Corey Mock appeared in support of HB 1431. This bill adds a provision to current state statute regarding a legislative ethics committee. The committee shall include members of both political parties from both chambers. In Section 2, the legislative management shall study the rules and procedures governing the legislative ethics committee, including terms of appointment, issuance of advisory opinions, investigation of complaints, and other related issues. Current code passed in 1995 states every interim the legislative management committee must appoint a legislative ethics committee. In each interim from 1995-2008, the responsibilities of the legislative ethics committee were satisfied by legislative management itself. Beginning in 2009 the procedures and arrangements committee took the fact role as the legislative ethics committee. Today North Dakota is the only state in the country that does not have either an ethics commission or a legislative ethics committee. There are a couple of states that don't have standing ethics committees or commissions, but those states at least have provisions that should something arise that an ad hoc committee could be created. This would give us the ability to write those rules and procedures in rule so that we govern ourselves, and if something would occur where we needed to have a legislative ethics committee created, the rules would say how that would happen. Again, that is only if that was the wishes of the interim study to make those adjustments to our rules. These changes were brought as a recommendation from Colorado (Attachment 1).

Rep. Schneider: We have not really had a legislative ethics committee ever?

Rep. Mock: When this law was put in place in 1995, a legislative ethics committee was never separately appointed.

Chairman Kasper: Committee, I am handing out 54-35-02.8 so you can see the statute that Rep. Mock was referring to. Attachment 2.

Rep. Karla Rose Hanson appeared in support and read testimony from John Stern, Fargo. Attachment 3 (8:02-12:24).

Dennis Cooley, Professor of Ethics and Philosophy at North Dakota State University, appeared in support. Attachment 4 (12:53-15:14)

Rep. Laning: Do you view ethics as a moving target?

Dennis Cooley: If we are talking about ethics as a moving target at can you actually make people better people, the answer is yes. If you mean ethics as a moving target is that ethical morality changes over time, then no, it doesn't change over time.

Vice Chair Louser: It seems the argument between campaign contributions gets merged into ethics. Yet it is very clear that campaign contributions are free speech, and we have to report them. I am wondering do you have any examples of where receiving a campaign contribution that is legal and reported is unethical?

Dennis Cooley: The influence of people around you is enormous. If you like someone, you are going to behave the way they behave. The best way to make people more ethical is to expose them to people who are ethical, who they want to be like. If you are giving campaign contributions to folks, people can't sometimes make the distinction between this is just a campaign contribution, and you are giving me something, you are doing this for me, you like me. If you have a group of people you think like you, you lean toward them. Other people who might be difficult for you, ask you challenging questions, and they don't back off and make you understand and rethink your position.

Vice Chair Louser: There are very specific laws that address campaign finance. There has to be a distinction between ethical behavior as it relates to or does not relate to accepting campaign finance contributions that are legal and reported. We as legislators have to have a distinction between receiving a campaign contribution. Is there an example where it would be unethical, because I can't think of one?

Dennis Cooley: Law is different from ethics. If you have a law in place, it takes care of the ethics—good to go. It is alright to get a \$1,000 or \$5,000 with a _ attached to it. You do this and I do this for you, and it is clearly not in keeping with what is best for the state of the constituents, etc. It would be legal, but it wouldn't be ethical.

Chairman Kasper: Where or how does good ethics and good ethical behavior occur? How do you get to that point where you are ethical?

Dennis Cooley: When somebody realizes what their values are, and they realize their principles and can apply it in an everyday situation. That is when you have a person who actually can start thinking about ethics. Whether they are a good person or a bad person depends on their experiences.

Chairman Kasper: Aren't the laws there to determine from the public perspective what is legal or not legal, because how do we pass a law that makes people ethical? Can statues

define what is not correct or right or ethical? Do you believe we can pass a law that will make people more ethical?

Dennis Cooley: No. As I said, the law is based on ethics. The law is a secondary thing. Ethics are primary, so there is no way of actually making people be ethical if you are just doing it law wise. Ethics also is not based on pure reason. It is based on emotion as well. You need empathy. Otherwise, you don't have any ability to be ethical in the first place. Law tends to move toward reason.

Rep. Vetter: Do you view after hour receptions and sponsored dinners for legislators as an unethical practice?

Dennis Cooley: It depends on the situation. If it is a _ sort of thing in which you are trying to corrupt one of the legislators, yes, that is an ethical issue. My interest in this is a little bit different. How is this perceived? There is a vast difference between what is the case and what is perceived to be the case. You have to have your leadership ready to go. Cutting the budget is going to hurt, but we can trust you on it.

Chairman Kasper closed the hearing. He had the law intern print and hand out to each committee member the copy of what John Bjornson of Legislative Council read on ethics at training. Attachment 5.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1431
2/17/2017
28498

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the legislative ethics committee; and to provide for a legislative management study

Minutes:

Chairman Kasper opened the meeting on HB 1431. We have been patiently waiting for the Senate to take action on SB 2343. It is going to be heard on the Senate floor today. I have been assured by the Senators that they will be passing that bill. That is the one that incorporates most of the election campaign finance reforms that we have before us.

Rep. B. Koppelman: I would like to move an amendment to remove Section 2 from HB 1431.

Rep. Steiner seconded the motion.

A voice vote was taken. Motion carried.

Rep. B. Koppelman made a motion for a DO PASS AS AMENDED on HB 1431.

Vice Chair Louser seconded the motion.

Chairman Kasper: This bill adds that the ethics committee must include members of both the majority and minority parties of each house. This is a good addition to the laws and rules of ethics given to us by the Legislative Council at the beginning of the session.

A roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent.

Rep. B. Koppelman will carry the bill.

2/17/17 DA

17.0927.01001
Title.02000

Adopted by the Government and Veterans
Affairs Committee
February 17, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1431

Page 1, line 2, remove "; and to provide for a legislative management study"

Page 1, remove lines 12 through 17

Renumber accordingly

Date: 2-17-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1431**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Koppelman Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Laning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

*Voice
 Vote
 motion
 carries*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Remove Section 2 of AB 1431 starting on Line 12

Date: 2-17-17
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1431**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By B. Koppelman Seconded By Louser

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	A	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	X				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	X				
Vicky Steiner	X				
Steve Vetter	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment B. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1431: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1431 was placed
on the Sixth order on the calendar.

Page 1, line 2, remove "; and to provide for a legislative management study"

Page 1, remove lines 12 through 17

Renumber accordingly

2017 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1431

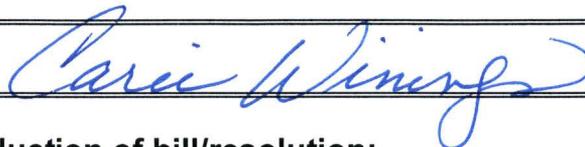
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

HB 1431
3/16/2017
Job Number 29335

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 54-35-02.8 of the North Dakota Century Code, relating to the legislative ethics committee.

Minutes:

Attachments: 1-3

Chairman Poolman: Opened the hearing on HB 1431.

Representative Mock, District 18: Testified to explain and in support of the bill. (See Attachment #1 for information provided to the committee. See Attachment #2 for amendment provided to the committee.) This bill changes on section of law. This bill added sentence into the section of code in legislative management regarding the existence of a legislative ethics committee. In 1995, the legislature adopted the language before you which created a legislative ethics committee. The ethics committee has never been a stand-alone committee. During each interim from 1995 to 2007 session, the work of the ethics committee was delegated to the legislative management committee. Since 2009-2010 the interim legislative procedure and arrangements committee has been delegated that authority. The language is fairly straight forward. It says that we have an ethics committee but there are virtually no rules or very little in the code regarding what the duties of that committee actually are. The House removed language that was then section 2 regarding an interim study. The interim study would have said that in the 2017-2018 interim legislative management shall consider studying the rules and procedures governing the legislative ethics committee including terms of appointment, issuance of advisory opinions, investigation of complaints, and other related issues. I have the study drafted as an amendment to be reintroduced to be included in the bill. This bill takes what is currently exists in law and requires that the makeup of that committee has to be bipartisan. It does not state how many of which. It just has to have representation from both parties. North Dakota remains the only state that does not have an ethics committee, commission, or even the ability to form an add hawk committee. Every other state in the country has some rule or procedure that allows them to have oversight committee if it ever arises.

(5:05) Referred to Attachment #1

(6:35) We do not have a process to address an ethics violation. When we talk about ethics and oversight, usually the answer here is generally stated that the voters can decide. If you did something that was unbecoming of an elected official, you can bring it up with the voters

and they can vote you out of office. That means, regardless of the offense, without any process, there is not an opportunity to present fact or findings, or an opportunity to defend yourself. The only consequence for any action, regardless of how severe it is, is a political capital offense. I do not think that anyone one should say that the only recourse is firing or losing your position. I don't think that losing your position is the only remedy. There is also a question of reputation, which is why every other state has some process in place. The one line is to make sure that it is bipartisan in the committee. I am asking this committee to be proactive and to give us a chance as a legislature to study this and come up with a process to handle this if an issue arises.

(8:30) See Attachment #3 for an example from South Dakota where things went wrong and ended up in a fight between the people and the legislature over what rules need to govern their government. It is not about what they did or did not do. It is more about what could happen to us. This is my attempt to address this before we end up in this sort of a situation. I am happy with the bill as it is presented before you, but I would hope that you would consider adding section 2 back in to give the chance to review this and see if there is anything that we need to put in law so that if something occurs there is a process in place that we can handle these matters in house and make sure that integrity is maintained and competence is never questioned.

(13:00) Senator Meyer: Is there any reason we don't list how many committee members there are and is there a reason we don't have any majority and minority breakdown?

Representative Mock: No. It would be one of the more unique committees if we put in statute the breakup of that committee. Because it is a legislative management section, and I do not think many of those committees actually specify how many members and the composition between the political parties. Normally those are distributed proportionately. Because this a statutory committee that has not actually been formed or served in function, this would further clarify that the committee exists and that it needs bipartisan representation.

Senator Vedaa: Would the study be trying to get ahead of what happened in South Dakota; so that we don't have that kind of thing happen here?

Representative Mock: Yes, in a way. There is not a strong willingness to talk about ethics in North Dakota. There have not been any offenses that have happened that we know of, so there has not been any motivating factor to make us go down this road. There had not been any major acts in South Dakota either. It was the perception that led voters to go down that path. My hope is that we can study this and have an answer to the voters if we are questioned on it.

Senator Vedaa: Was this South Dakota initiated measure an out of state thing similar to what happened to us with Measure 5 and Marcy's law?

Representative Mock: I cannot say for fact that it was. Both proponents and opponents had significant amounts of support and funding from out of state. I would not be surprised if this was not encouraged by an out of state group. SD Requires SD citizens to initiate the measure, and they can have the backing by anyone as long as campaign laws allow. There are several out of state organizations that can represent about anything we can imagine.

Senator Bekkedahl: I have an ethics file in my desk from the information that we are given, and I know that there are some things that have been addressed. The legislative management study that you have here puts in some things that we don't address already in our ethics standards. Is that what you are attempting to do with the study?

Representative Mock: Correct. We do have joint rule 1001 and 1002. It is in regard to ethics. Legislative council does a wonderful job at providing information on rules governing elected officials, but then also the difference between what is legally allowed and what is ethically ok. They try to make sure that you as an elected official representing the 14,000 residents in your home district know what you should or should not do. There is nothing stated in statute or rules that says what happens if we don't follow the ethics standards.

(20:18) Carol Two Eagle, North Dakota Resident: Testified in support of the bill. I can guarantee you need an ethics committee, guidelines, and procedures in place. I lobby on behalf of grass roots people. I have been told many things that are unacceptable by the legislators. The legislators should know what they should and should not do. They should be held accountable. (Gave many examples of things that have been said or done to her that she felt were no appropriate.)

(25:45) Chairman Poolman: There was no further testimony. Closed the hearing on HB 1431.

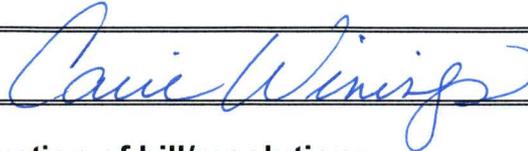
2017 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

HB 1431
3/23/2017
Job Number 29600

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 54-35-02.8 of the North Dakota Century Code, relating to the legislative ethics committee.

Minutes:

No Attachments

Chairman Poolman: Opened HB 1431 for committee discussion. We already have an ethics committee and this one line to the bill makes sure that we have members of both the majority and the minority of each house.

Senator Bekkedahl: Currently the committee does include both doesn't it?

Chairman Poolman: My understanding is that maybe the ethics committee isn't doing a whole lot right now.

Senator Bekkedahl: If they are called into action, does it include both the majority and the minority? I have never seen it operate to know.

Chairman Poolman: I haven't seen it operate to know either.

Vice Chairman Davison: I have an amendment that was brought along with that bill for a section 2 from Representative Mock. I don't have any notes on that. Not that we have to discuss it.

Senator Marcellais: There is an amendment for a study. It is a management study. Moved Amendment 17.0927.02001.

Vice Chairman Davison: Seconded. (For the sake of discussion.)

Chairman Poolman: Any discussion?

Vice Chairman Davison: Was this a hog house?

Chairman Poolman: It is just adding the study.

A Roll Call Vote Was Taken: 1 yea, 5 nays, 0 absent.

Motion Failed.

Vice Chairman Davison: Moved a Do Pass.

Senator Marcellais: Seconded.

Chairman Poolman: I think you asked a good question Senator Bekkedahl in terms of if these people are already on there. It certainly doesn't hurt to make sure that they are. I don't think that this committee is very active.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Marcellais will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1431

Page 1, line 2, after "committee" insert "; and to provide a legislative management study"

Page 1, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - LEGISLATIVE ETHICS COMMITTEE. During the 2017-18 interim, the legislative management shall consider studying the rules and procedures governing the legislative ethics committee, including terms of appointment, issuance of advisory opinions, investigation of complaints, and other related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

Date: 3/23
 Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1431

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Davison Seconded By Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Poolman	✓		Senator Marcellais	✓	
Vice Chairman Davison	✓				
Senator Bekkedahl	✓				
Senator Meyer	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Marcellais

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1431, as engrossed: Government and Veterans Affairs Committee (Sen. Poolman, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1431 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1431

Re: HB 1431
Attachment 1
1-26-17

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Seventieth General Assembly of the State of Colorado (2016) ***

TITLE 24. GOVERNMENT - STATE
ADMINISTRATION
ARTICLE 18. STANDARDS OF CONDUCT
PART 1. CODE OF ETHICS

C.R.S. 24-18-113 (2016)

24-18-113. Board of ethics for the general assembly - created - duties

(1) (a) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(b) The terms of the members appointed by the majority and minority leaders of the house of representatives and the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the majority and minority leaders of the house of representatives and the senate shall each appoint or reappoint members in the same manner as provided in paragraph (a) of this subsection (1). Thereafter, the terms of members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the majority and minority leaders of the house of representatives and the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall continue in office until the member's successor is appointed.

(c) The members of the board of ethics for the general assembly are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, C.R.S.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

HISTORY: Source: L. 88: Entire article added, p. 905, § 1, effective July 1. L. 2007: (1)

P. 2

amended, p. 181, § 13, effective March 22.L. 2014: (1)(c) added, (SB 14-153), ch. 390, p. 1963, § 13, effective June 6.

View

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C.R.S. 24-18-113 (Copy w/ Cite)

Pages: 2



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RELX Group™

Colorado House Rules regarding Legislative Ethics Committee

(a) Any person who has knowledge concerning misconduct involving legislative duties by a member of the House, including but not limited to the alleged violation of the Rules of the House of Representatives or of section 40 of article V of the state constitution, may file a written, signed complaint with the Speaker setting forth the facts that constitute the alleged misconduct and specifying the statutes, rules, constitutional provisions, or other ethical principles alleged to have been violated. The Speaker shall provide the member complained against with a copy of the complaint. The Speaker shall consult with the majority leader and the minority leader about the complaint. The Speaker may ask the member complained against to provide an explanation of his or her understanding of the issues raised in the complaint for the purpose of assisting the Speaker, the majority leader, and the minority leader in making a preliminary determination of whether or not the complaint appears to be meritorious. The fact that a complaint has been filed and any documents relating thereto shall be kept confidential by the Speaker, the majority leader, and the minority leader. If at least two of the three leaders conclude that the complaint does not appear to be meritorious, the complaint shall be dismissed, and the complainant and the member complained against shall be so notified. If the complaint is dismissed, it shall continue to be kept confidential by the Speaker, the majority leader, and the minority leader.

(b) If the complaint is not dismissed pursuant to subsection (a) of this rule, the Speaker shall appoint a committee on ethics, which shall consist of not less than five nor more than seven members. The party representation on the committee shall be in proportion generally to the relative number of members of the two major political parties in the House. The majority party members of the committee shall be selected from among the chairmen of committees of reference of the House. The minority party members of the committee shall be selected, after considering recommendations by the minority leader, from among the members of the House who are senior in service and experience. The Speaker shall designate the chairman and vice-chairman of the committee from among its members.

(c) The person complained against may submit a written answer to the committee within ten days after appointment of the committee. The committee shall make a preliminary investigation of the complaint. The preliminary investigation shall consist of an examination of the complaint, the answer, if any, and any other evidence compiled pursuant to the request of the committee, but the committee shall not receive testimony or other evidence from other sources. The preliminary investigation shall be completed within thirty days after appointment of the committee. If, after the preliminary investigation, the committee determines no violation has occurred, the complaint shall be dismissed.

(d) If, after the preliminary investigation, the committee determines probable cause exists to find that a violation may have occurred, it shall so notify the person complained against. Within seven days after such notification, such person may request a hearing before the committee, at which he or she shall be entitled to appear, present evidence, cross-examine witnesses, and be represented by counsel. The committee shall have the power to take testimony under oath and

to issue subpoenas and subpoenas duces tecum in the manner provided by Joint Rule No. 33 (b), (c), and (d) of the Joint Rules of the Senate and House of Representatives. The hearing shall commence within fourteen days after receipt of the request for a hearing.

(e) All proceedings of the committee shall be governed by the provisions of part 4 of article 6 and part 2 of article 72 of title 24, Colorado Revised Statutes.

(f) After a hearing held pursuant to subsection (d) of this rule, the committee may dismiss the complaint, or, if it finds that action should be taken against the member complained against, it shall make appropriate recommendations to the House of Representatives, including reprimand, censure, or expulsion. Expulsion of a House member shall require the affirmative vote of two-thirds of the members elected to the House. Reprimand or censure of a member shall require the affirmative vote of a majority of the members elected to the House.

(g) Action of the leadership, the ethics committee, or the House pursuant to this rule is final and not subject to court review. Nothing in this rule shall prohibit the House of Representatives from taking any action based upon its authority to judge the qualifications of its members pursuant to Section 10 of Article V of the state Constitution.

(h) The committee may retain such counsel and may hire such investigators as it deems necessary for the performance of its duties under this rule. All expenditures incurred pursuant to this subsection (h) shall be approved by the Speaker and paid by vouchers and warrants drawn as provided by law from appropriations made to the General Assembly.

(i) The committee may adopt rules of procedure for the orderly conduct of its meetings, investigations, and hearings, which rules shall be consistent with this rule and other applicable rules and statutes.

(j) If the complaint concerns misconduct of the Speaker, then the duties of the Speaker in this rule shall be the duties of the majority floor leader and the duties of the majority floor leader shall be the duties of the assistant majority leader. If the complaint concerns misconduct of the majority floor leader or the minority leader, then the duties of such leader in this rule shall be the duties of the assistant majority leader or the assistant minority leader, as the case may be.

1431
1-26-17
Attachment
2

committees. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees. The membership of the administrative rules committee must include at least one of the members who served during the most recently completed regular session of the legislative assembly from each of the standing committees of either the house of representatives or the senate.

54-35-02.6. Rules reviewed by administrative rules committee - Committee responsibility.

The administrative rules committee shall review administrative rules adopted under chapter 28-32. The committee shall consider oral and written comments received concerning administrative rules. The committee shall study and review administrative rules and related statutes to determine whether:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There is dissatisfaction with administrative rules or with statutes relating to administrative rules.
3. There are unclear or ambiguous statutes relating to administrative rules.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative management for the amendment or repeal of statutes relating to administrative rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code does not prevent rules from taking effect. Except for action pursuant to section 28-32-17 or 28-32-18, the recommendations or opinions of the committee do not affect the legality of any rule as determined by the attorney general.

54-35-02.7. Water topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water topics. The committee shall work collaboratively with the state water commission and may meet with the state water commission. The committee shall report on the committee's project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants, and contracts. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

54-35-02.8. Legislative ethics committee.

The legislative management, during each biennium, shall appoint an ethics committee to consider or prepare a legislative code of ethics. The committee may recommend legislation relating to legislative ethics. The committee shall operate according to the laws and procedures governing the operation of other legislative management interim committees.

54-35-03. State departments, officers, and employees to cooperate.

Each department, board, commission, agency, officer, or employee in the state government shall furnish such information and render such assistance to the legislative council and to the legislative management as the legislative council or the legislative management or its committees may from time to time request.

54-35-04. Meetings - When held - How called - Quorum.

The legislative management or committee appointed by it, may sit at such time and place as it may deem advisable, but the legislative management shall meet at least once in each year and shall meet at any time upon the call of the chairman or a call signed by seven members of the legislative management. At any meeting of the legislative management, seven members

1431
1-26-17
Attachment 3

Testimony in Support of HB 1431 - Ethics Committee John Stern, Fargo

Last spring I participated in a panel discussion at NDSU on whether or not ND should establish an ethics commission. It was a very interesting and enlightening discussion, with plenty of audience participation. And in the audience were several ND legislators, from both parties. ND is one of just 7 or 8 states that do not have an Ethics Commission. Five of the eight states are small states like ND, including New Hampshire, Vermont, South Dakota, and Wyoming.

The discussion started with questioning whether there was a problem in ND with ethical behavior in state government. Some examples were presented of sponsored trips for legislators and the never ending after-hours receptions and sponsored dinners for legislators, which seem to be the "grey" areas. No examples were presented of any egregious financial impropriety. But areas of potential abuse seem to be centered on the use of campaign finance funds and the sponsored trips. Currently there are no rules or laws relating to either. Anyone can raise money to finance a campaign. Donations of \$200 or more have to be documented, but how the money is spent does not. While it is unlikely that any candidate for any office in ND has large amounts of money left after running a campaign for office, one can imagine how it would be possible. Perhaps a coal company, or oil pipeline company, or electric utility would like to donate a large amount to a Public Service Commission candidate. There is no rule or law that would prohibit that, and no requirement to show how the money was spent. Theoretically, the candidate could pocket any money not spent and not violate any state rules or laws.

While there does not seem to be a problem at this time, the potential does exist for abuse. And ND does not have official commission, nor does it have any rules, relating to these issues. Or does it? Late in our discussion, it was revealed that there is a provision in the ND Century Code (#54-35-02.8) that establishes a Legislative Ethics Committee. This section of the law states "The legislative management ... shall appoint an ethics committee to consider or prepare a code of ethics." It was a surprise to everyone in the room, including the legislators present. In neglecting, or refusing, to appoint an ethics committee, the legislature management has been in violation of the law (the Code says "shall appoint" not "may appoint"). I suppose our legislative leaders don't believe there is a problem, and perhaps they would have difficulty putting together a bi-partisan committee to deal with this requirement.

I would urge our legislative leaders to take this issue more seriously than they have in the past. We in ND like to think we are different than the rest of the world, but human nature doesn't really change. We are no better nor are we any worse than anyone else. Most civic organizations have a code of ethics. Our youth organizations such as the Boy Scouts and the Girl Scouts have them too. Most businesses have policies proscribing behaviors deemed contrary to standard business ethics. The legal and medical professions have committees that deal with ethical issues. It seems to be a laudable standard in America.

I would suggest that it is time for our state leaders to address this issue. I believe that it would be better for all concerned if an independent ethics commission were appointed to develop a code of ethics for all branches of our state government. This commission could also be tasked to deal with perceived violations of the code. Certainly it would be a difficult job, one that few would want. The media have done a pretty good job of watching and reporting on our government, but in the absence of any code of ethics, I suspect that there is much that is ignored.

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Would an Ethics Commission be a solution in search of a problem? If there is not a current problem with ethical behavior on the part of our government leaders, legislative, executive, or judicial, there is always the potential, as has been demonstrated time and again in other states. We are kidding ourselves to think otherwise. **I support the passage of House Bill 1431. It is time.**

John Stern
1458 S River Rd
Fargo ND 58103

Attachment 4

1431

1-26-17

Dennis Cooley

House Bill No. 1431

My name is Dennis Cooley, and I am a Professor of Ethics and Philosophy at North Dakota State University, Director of the Northern Plains Ethics Institute at NDSU, Secretary General of the International Academy of Medical Ethics and Public Health whose home is in the University of Paris, and co-editor of Springer's International Library of Ethics, Law, and the New Medicine. What I say here does not necessarily represent the views of any of the organizations I mentioned.

I come today in support of Bill 1431. A change to the ethics committee so that it has members from each party in the house is an extraordinarily good idea. I have taught critical reasoning in ethics and other areas for over 25 years. What helps people make the best decisions is for there to be diversity in thinking and relevant information. What one group might overlook, another does not. Information from that diversity helps form a better designed solution, so practically speaking, diversity of the parties will yield better results than monopolies.

More importantly, a diversity of parties helps show your constituents that you take your ethical roles seriously. Ethics is not about being partisan but making sure you and others do the right thing for the right reason at the right time. It is about being good people who make others better moral people. It is a group effort to help make institutions and societies better. So you need all parties involved so that whatever decisions are made are those of the community as a whole – and not merely the party in power at the moment – and community orientation shows the values of the body as a whole.

Finally, credibility and gravitas are brought to the work of the committee with diverse representation, which makes the committee's tough decisions far easier to accept, especially by those who are being censured. So this very small change is really a very inexpensive way to build a more efficient system based on shared values.

The changes in governance that I'm testifying in favor of this week are practical on pragmatic grounds. First, it is always best to have clear rules in place for these matters before something has to be done about them, then to wait and then have to react. On my syllabi each semester, there is a passage in that states that anyone committing academic dishonesty in the class will be failed for the entire semester. It is in larger letters and bold and on the front page so that students know what the standards are and what will happen to them. More importantly, it tells them that I mean it, so if I catch a cheater, that cheater is going to go down hard. That puts the potentially dishonest people on notice, but more importantly shows those who play by the rules that they are not suckers for doing as they are supposed to do. By making clear these good governance standards, you are doing the same.

The second pragmatic ground take a long term, wider picture view. Making this one tiny alteration to our expectations of legislative responsibilities provides North Dakota with an opportunity to show our citizens and the rest of the country our shared fundamental values of openness, forthrightness, and integrity. Our legislators are good, decent folks with nothing to

hide, and making this small change shows they are dedicated to the good governance they promised their constituents when running for office.

Our success as a state has caused us to need this change. In 2015, the non-partisan Center for Public Integrity gave North Dakota a D- rating, thereby raising us from the miserable F we had received just three years before. (<https://www.publicintegrity.org/2012/03/19/8423/grading-nation-how-accountable-your-state>) Now I'm not in agreement with the Center because it seems to lack an understanding on how our culture works here, or maybe not:

The libertarianism roots, a small-town, neighborly approach to government and the honest belief that "everybody knows everybody" have overridden any perceived need for strong protections in law. "In smaller states, the culture is different...It is harder to disobey the law and go against your own moral core if everyone knows you." (<https://www.publicintegrity.org/2012/03/19/8423/grading-nation-how-accountable-your-state>)

Now 15 years ago, we did know each other for the most part. I could stand outside of one of these hearing rooms, and chat with folks who knew me, and I them. (In fact, we used to get in trouble – if you can call it that – when we were talking too loudly and the hearing chair would have to come out to ask us to hush up a bit.)

The challenge is, as you know, our local and state communities have changed. Fifteen years ago, when I was recruited to work at NDSU on ethics and genetics, the state was still losing more people than it was bringing in through the standard means. That decline is gone, and for good, let us hope. There is still a very low unemployment rate here that attracts those seeking jobs for a better life. We have social cultures people want to live in. Given the innovators and entrepreneurs I've met around the state, economic and population growth is likely to increase the influx.

Now, it is possible to go places and not know folks or have a homogenous experience. We clearly do not have the same cultural background that allowed us to think much the same thing about issues. Although that is sad from a nostalgia point, it is a good thing for the long term health of our state. Differences create marketplaces of ideas, which create innovation, which creates enterprise. And increased enterprise is good for this state.

But growth also creates misunderstandings based on a lack of information, miscommunication, and oversights which are not unethical in themselves, but pose difficulties for those trying to get things to run openly and efficiently. There is nothing illicit going on, but if folks don't have enough information or processes that guarantee that everything is on the up-and-up, then they start worrying about whether it is, especially when hard decisions have to be made that negatively impact them. Each representative here has the trust of her or his constituents, but there are constituents in other districts who do not trust other legislators or the state's governing process. That is a shame for us.

Fortunately, we have an opportunity this session to take those little steps required to keep or rebuild the trust in our legislators and legislative process that each deserve. By passing this bill, and making it into law, we keep things working efficiently – which is part of what ethics is all about. We show that our legislators are the honest, decent citizen-politicians Thomas Jefferson and others thought would run government best. And, most importantly, we show current

residents, newcomers, and future generations the high standard we have for North Dakotans representing other North Dakotans.

LEGISLATIVE ETHICS - LAWS AND RULES

INTRODUCTION

There is a difference between ethical behavior and legal behavior. Everyone has the duty to obey the law. Ethical behavior is a higher standard of conduct than merely not violating the law. Ethical behavior is following standards of moral duty and virtue in accordance with the accepted principles of conduct that govern in certain circumstances. In the circumstances of service as a member of the North Dakota Legislative Assembly, many of the accepted principles have been set in law or rules. This memorandum reviews constitutional and statutory provisions that apply particularly to legal and ethical behavior of legislators. This memorandum also reviews legislative rules that the Legislative Assembly has established as standards of ethical conduct that legislators are expected to meet.

NORTH DAKOTA LAWS RELATING TO LEGAL BEHAVIOR AND ETHICS OF LEGISLATORS

Constitutional Provisions

A number of provisions of the Constitution of North Dakota relate to behavior in legislative activities.

Section 6 of Article IV provides:

While serving in the legislative assembly, no member may hold any full-time appointive state office established by this constitution or designated by law. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office that has been created by the legislative assembly. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office for which the legislative assembly has increased the compensation in an amount greater than the general rate of increase provided to full-time state employees.

Section 9 of Article IV provides:

If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

Sections 10 and 12 of Article IV contain indirect references to ethical standards. Section 10 provides:

No member of the legislative assembly, expelled for **corruption**, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the legislative assembly, or to any office in either branch thereof. (**emphasis supplied**)

Section 12 of Article IV refers to ethical standards and also provides for the legislative authority to expel members. Section 12 provides, in part:

Each house shall determine its rules of procedure, and may punish its members or other persons for **contempt or disorderly behavior in its presence**. With the concurrence of two-thirds of its elected members, either house may expel a member. (**emphasis supplied**)

Statutory Provisions

Several provisions of the North Dakota Century Code govern general activities of individuals and public officials.

Tampering With Public Records

Section 12.1-11-05 provides it is a Class C felony if a public servant who has custody of a government record knowingly makes a false entry in or knowingly, without lawful authority, destroys the verity or availability of a government record. "Government record" is defined as any record, document, or thing belonging to, or received or

kept by the government for information or record, or any other record, document, or thing required to be kept by law pursuant to a statute that expressly invokes the penalty in that section.

Bribery - Unlawful Influence

Section 12.1-12-01 makes it a Class C felony to knowingly offer, give, or agree to give to another, or solicit, accept, or agree to accept a thing of value as consideration for the recipient's official action as a public servant or the recipient's violation of a known legal duty as a public servant.

Section 12.1-12-02 provides that any person who violates Section 9 of Article IV (giving vote or influence) or Section 10 of Article V (actions of Governor) of the Constitution of North Dakota is guilty of a Class C felony.

Section 12.1-12-03 makes it a Class A misdemeanor for a public servant to solicit, accept, or agree to accept a thing of pecuniary value from a nongovernmental source as compensation for advice or other assistance in preparing or promoting a matter that is or is likely to be subject to the public servant's official action, or for omitting or delaying official action.

Section 12.1-12-04 makes it a Class A misdemeanor to solicit, accept, or agree to accept, or offer, give, or agree to give a thing of pecuniary value as consideration for approval or disapproval by a public servant or party official of a person for appointment, employment, advancement, or retention as a public servant or for designation or nomination as a candidate for elective office.

Section 12.1-12-05 makes it a Class A misdemeanor to knowingly offer, give, or agree to give, or solicit, accept, or agree to accept a thing of pecuniary value for exerting, or procuring another to exert, special influence upon a public servant with respect to the public servant's legal duty or official action as a public servant.

Confidential Information - Conflict of Interest

Section 12.1-13-01 makes it a Class C felony for a public servant, in knowing violation of a public duty, to disclose any confidential information acquired as a public servant.

Section 12.1-13-02 makes it a Class A misdemeanor if during employment as a public servant, or within 1 year thereafter, in contemplation of official action by that person as a public servant or in reliance on information to which that person had access only in that person's capacity as a public servant, a public servant acquires a pecuniary interest in any property or enterprise which may be affected by such information or official action, speculates on the basis of such information or official action, or aids another to do any of these activities.

Section 12.1-13-03 makes it a Class A misdemeanor for a public servant who is authorized to sell or lease property to enter a contract to become interested individually in the sale or lease of that property or in that contract.

Interference with Elections

Sections 12.1-14-02 and 12.1-14-03 make it a Class A misdemeanor to interfere with another because that person is or has been voting for any candidate or issue or to make or induce any false voting registration or give a thing of pecuniary value to another as consideration for the recipient's voting or withholding the recipient's vote for or against any candidate or issue.

Theft

Section 12.1-23-03 provides that it is theft to intentionally obtain services, known to be available only for compensation, by deception, threat, false token, or other means to avoid payment for the services, or to permit another to use those services. Under Section 12.1-23-05, if a public servant violates Section 12.1-23-03 and the services exceed \$50 in value or is a government file or paper, the offense is a Class C felony.

Section 12.1-23-07 makes it a Class B misdemeanor to use property entrusted to a public servant in a manner that the user "knows is not authorized and that [the user] knows to involve a risk of loss or detriment to the owner of the property or to the government." The criminal offense classification increases as the value of the misapplied property increases.

Campaign Contribution Statements

Title 16.1 governs elections. In addition to general requirements for election to office, several provisions apply to the conduct of legislators and public employees.

Section 16.1-08.1-02 requires any candidate committee or candidate for legislative office soliciting or accepting contributions for any political purpose to make and file with the Secretary of State a detailed statement of all contributions received from each individual or political committee, which exceed \$200 in the aggregate for the

calendar year. Sections 16.1-08.1-03 and 16.1-08.1-03.8 contain similar requirements for contributions and expenditures for political parties and multicandidate political committees, respectively.

Statements of Interests

Section 16.1-09-02 requires every candidate for elective office to file a statement of interests along with the certificate of nomination or endorsement or the petition of nomination. Section 16.1-09-03 lists the requirements for the contents of the statement. The candidate must identify the principal source of income, entities in which the candidate or candidate's spouse has a financial interest, entities with which the candidate and candidate's spouse are closely associated and which may be affected by legislative action, and the identity of business relationships held by the candidate or candidate's spouse during the preceding calendar year.

Corrupt Election Practices

Chapter 16.1-10 identifies corrupt practices.

Section 16.1-10-01 makes it a corrupt practice for any person to expend any money for election purposes contrary to the provisions of Chapter 16.1-10, engage in any of the practices prohibited by Section 12.1-14-02 or 12.1-14-03 (interference with elections, or use state or political subdivision services or property for political purposes).

Section 16.1-10-02 prohibits any person from using any property belonging to or leased by, or any service that is provided to or carried on by, the state or a political subdivision for any political purpose.

"Property" is defined as including motor vehicles, telephones, typewriters, adding machines, postage or postage meters, money, and buildings. (Although this definition is somewhat dated, e.g., typewriters and adding machines, the definition does not exclude computers, cell phones, and smartphones.)

"Services" is defined as including the use of employees during regular working hours for which the employees have not taken annual or sick leave or other compensatory leave. (Although the definition specifically identifies one type of service, the definition does not exclude any type of service, e.g., Internet service, which also could be considered a type of property.)

"Political purpose" is defined as any activity undertaken in support of or in opposition to a **statewide initiated or referred measure, a constitutional amendment or measure, a political subdivision ballot measure**, or the election or nomination of a candidate for public office whether the activity is undertaken by a candidate, political committee, political party, or any other person, but does not include the activities undertaken in the performance of a duty of state or political subdivision office. **Factual information may be presented regarding a ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question.** (emphasis supplied)

Political Activities - State Cars - Mileage Expense

Section 39-01-03 prohibits an officer or employee of the state from using or driving any motor vehicle belonging to the state or any agency of the state for private use or while engaged in any political activity.

Section 39-01-04 defines political activity as "any form of campaigning or electioneering, such as attending or arranging for political meetings; transporting candidates or workers engaged in campaigning or electioneering; distributing campaign literature, political guide cards, or placards; soliciting or canvassing for campaign funds; transporting electors to the polls on election day; and any other form of political work usually and ordinarily engaged in by state officers and employees during primary and general election campaigns."

Section 39-01-05 prohibits any state officer or state employee who uses or drives any privately owned motor vehicle while engaged in political activity to collect or receive from the state any expense money for the use or operation of the motor vehicle while engaged in the political activity. The section also prohibits any state officer or employee from receiving any traveling expense reimbursement from the state for any time spent engaging in any political activity.

Public Officers Generally - Political Activities

Title 44 contains provisions generally applicable to public officers or employees.

Section 44-08-19 prohibits a public employee from engaging in political activities (as defined in Section 39-01-04) while on duty or in uniform.

Nepotism

Section 44-04-09 prohibits a state official or employee from serving in a supervisory capacity over, or enter a personal service contract with, that individual's parent, spouse, son, daughter, stepchild, brother, sister, brother-in-law, sister-in-law, son-in-law, or daughter-in-law. "Supervisory capacity" means the authority to appoint, employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote, or terminate.

Public Records Generally

Section 6 of Article XI of the Constitution of North Dakota, provides that unless otherwise provided by law, "all records of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours."

Section 44-04-18 provides that unless otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours. Section 44-04-17.1 defines a record as "recorded information of any kind, regardless of the physical form or characteristic by which the information is stored, recorded, or reproduced, which is in the possession or custody of a public entity or its agent and which has been received or prepared for use in connection with public business or contains information relating to public business." Section 44-04-17.1 further provides that a record includes preliminary drafts and working papers.

Legislative Records

Section 44-04-18.6 provides that certain legislative records (records of or relating to the Legislative Council, Legislative Management, Legislative Assembly, House of Representatives, Senate, or a member of the Legislative Assembly), regardless of form or characteristic, are not subject to the open records laws. Specifically identified are:

- A record of a purely personal or private nature;
- A record that is Legislative Council work product or is Legislative Council-client communication;
- A record that reveals the content of private communications between a member of the Legislative Assembly and any person; and
- Except with respect to a governmental entity determining the proper use of telephone service, a record of telephone usage which identifies the parties or lists the telephone numbers of the parties involved.

Specifically excluded from Section 44-04-18.6 are records distributed at a meeting subject to Section 44-04-19 and Section 5 of Article XI of the Constitution of North Dakota. Also, Section 44-04-18.26 provides record of the Legislative Council which is related to an open records request made by the Legislative Council on behalf of a member of the Legislative Assembly is a public record.

Public Meetings

Section 5 of Article XI of the Constitution of North Dakota, provides that unless otherwise provided by law, "all meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be open to the public."

Section 44-04-19 provides except as otherwise specifically provided by law, all meetings of a public entity must be open to the public. Under Section 44-04-17.1, "meeting" is defined as including a formal or informal gathering of a quorum of the members of the governing body of a public entity regarding public business. "Public business" is defined as including all matters that relate or may foreseeably relate in any way to the performance of the public entity's governmental functions.

Note that the Attorney General has opined that the open meetings law is violated when a quorum of members of the Dickinson City Commission and of the South Heart City Council attended a presentation by Great Northern Power about its proposed coal gasification plant in Stark County (Opinion 2008-O-11, Dickinson City Commission; South Heart City Council). The opinion discusses what constitutes public business and points out that information shared by Great Northern Power at the presentation concerned personnel requirements and likely economic impact of the proposed plant on the area which in turn could have a significant effect on the infrastructure needs that could foreseeably be brought before the governing bodies and thus related to public business.

Public Improvement Contracts

Section 48-01.2-08 prohibits a governing body or any member, employee, or appointee of a governing body from being pecuniarily interested or concerned in a contract for a public improvement entered by the governing

body. A public improvement is defined as including any improvement for the good of the public and which is paid for with public funds.

Use of Great Seal

Section 54-02-01 makes it a Class B misdemeanor for any person to place the Great Seal of the state on any political badge, button insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the Great Seal for any political purpose, as defined in Section 16.1-10-02. The Great Seal appears on legislative stationery. In a letter to Senator Bryce Streibel dated June 8, 1993, the Attorney General said it was her opinion that use of the Great Seal as a part of a letterhead or otherwise in a campaign constitutes a corrupt practice under Section 16.1-10-01.

Section 54-02-01 was amended in 1997 to allow use of the Great Seal on business calling cards of state officials and employees, regardless of whether the cards are paid for by the person or the state.

Legislative Lobbying

Chapter 54-05.1 governs legislative lobbying.

Section 54-05.1-02 defines lobbying as (1) attempts to secure the passage, amendment, or defeat of any legislation by the Legislative Assembly or the approval or veto of any legislation by the Governor, or (2) attempts to influence decisions made by the Legislative Management or by an interim committee of the Legislative Management.

Section 54-05.1-03(2) requires registered lobbyists to file annual expenditure reports by August 1 of each year (the annual registration period for lobbyists goes from July 1 through June 30). The report must include a statement as to each expenditure of **\$60 or more expended on any single occasion on any individual**, including a legislator's spouse or other family member, in carrying out the lobbyist's work. If the lobbyist does not make any such expenditures, the report must include a statement that no reportable expenditures were made during the reporting period. (**emphasis supplied**)

Section 54-05.1-05 requires a lobbyist, on request of a legislator, to supply the legislator with the estimated cost of a non-information-bearing gift provided to the legislator or of a function sponsored by the lobbyist and allow the legislator to accept the gift or attend the function and pay the legislator's own share of the expense.

State Officials - Restrictions

Section 54-06-12 makes it a Class C felony for any state official to publish willfully any false statement in regard to any state department, institution, or industry which tends to deceive the public and create a distrust of any state official or employee in charge of such department, institution, or industry, or which tends to obstruct, hinder, and delay the various departments, institutions, and industries of the state.

Section 54-06-26 permits state officials and employees to use state telephones for local calls for essential personal purposes to the extent that use does not interfere with official functions. The section also allows limited long-distance telephone calls when an official or employee is away on state business.

Chapters 54-52 and 54-52.1 relate to public employee retirement and health insurance and contain several provisions making records on those subjects confidential. Some of those records are also confidential under the federal Health Insurance Portability and Accountability Act of 1996.

Section 54-35-02.8 provides the Legislative Management is to appoint an ethics committee each biennium to consider or prepare a code of ethics. The Legislative Management has named the Legislative Procedure and Arrangements Committee as the ethics committee. In 1997 that committee recommended the adoption of Joint Rules 1001 through 1004, which establish a legislative ethics policy.

LEGISLATIVE RULES AFFECTING ETHICS

House and Senate Rules 321 provide that any member who has a personal or private interest in any measure or bill must disclose the fact to the House or Senate and may not vote thereon without the consent of the House or Senate. The rules define "personal or private interest" as an interest that affects the member directly, individually, uniquely, and substantially.

House and Senate Rules 322 provide that when a member asks to be excused, or declines to vote, the member is required to state the member's reasons. Upon motion, the question must be put to the House or Senate "Shall the member, for the reasons stated, be permitted to vote?" The question is to be decided without debate, and the proceedings must occur before the taking of the vote.

Joint Rule 901 declares that the Legislative Assembly is committed to providing a healthy and appropriate work environment and that sexual harassment in any manner will not be tolerated.

Joint Rules 1001 through 1004, relating to ethics, provide as follows:

1001. Legislative ethics policy.

1. The Legislative Assembly always seeks a high reputation for progressive accomplishment where its members are public officers of integrity and dedication, maintaining high standards of ethical conduct.
2. The public interest is best served by attracting and retaining in the Legislative Assembly citizens of high caliber and attainment. The public interest will suffer if unduly stringent requirements deprive government of the services of well-qualified citizens.
3. Membership in the Legislative Assembly is not a full-time occupation and is not compensated on that basis. Continued membership is on an elected-term basis, requiring each member to recognize and contemplate that election will not provide any career tenure. These characteristics ensure that each member is rooted to a community and that legislation reflects the needs and values of citizens.
4. A member such as a teacher, administrator, state employee, farmer, labor leader, lawyer, independent business person, or any salaried employee must look to a source of income from other than legislative compensation for sustenance and support; moreover, every member must plan for return to that individual's regular employment, business, or profession.
5. The increasing complexity of public policy at all levels, with intervention into private affairs, makes conflicts of interest almost inevitable for every part-time public official, and particularly for a member who must vote on measures affecting the life of every citizen or resident of the state. Consequently, the adoption of standards of ethics does not impugn a member's integrity or dedication; rather, it recognizes the increasing complexity of government and private life and provides members with helpful advice and guidance when confronted with difficult problems in that gray area involving action that is neither clearly right nor clearly wrong.
6. Ethical conduct is expected of all who participate in the legislative process, including lobbyists, legislative staff, government employees, interest groups, the media, and others. All participants in the legislative process should recognize the importance of their role to support each member's ethical duty to make independent judgments.
7. If public confidence in the Legislative Assembly is to be maintained and enhanced, it is not enough that members avoid acts of misconduct. They also must avoid acts that may create an appearance of misconduct.

1002. Recognition of ethical standards. The resolution of ethical problems must rest largely in the individual conscience. The Legislative Assembly may and should, however, define ethical standards, as most professions have done, to chart the areas of real or apparent impropriety. Unless otherwise provided by law, no criminal penalty applies to a member who engages in conduct that is inconsistent with this section. However, in striving to maintain ethical standards, each member should recognize the importance of:

1. Complying with all other rules relating to ethics, including Joint Rule 901 regarding sexual harassment and Senate and House Rules 321 regarding disclosure of personal or private interest when voting.
2. Acknowledging that the public trust requires each member to make a consistent effort to be well-informed about legislative issues and legislative proposals and to resist influences that may bias the member's independent judgment.
3. Acknowledging that accountability requires members to maintain communication with constituents, to remain open to constructive comment, and to exercise leadership in helping constituents understand legislative issues.
4. Acknowledging that institutional responsibility requires members to remain committed to the integrity and maintenance of the legislative branch.
5. Not using or attempting to use the member's influence in any matter involving a substantial conflict between the member's personal interest and duties in the public interest.
6. Not using the member's official position to obtain financial gain for the member, the member's family, or a business associate or to secure privileges or exemptions in direct contravention of the public interest.

1003. Recognition of constitutional and statutory provisions. Members should apprise themselves of constitutional provisions and statutes that prohibit conduct for which criminal penalties may apply, including Article IV, Section 9, of the Constitution of North Dakota, which prohibits vote trading; Article IV, Section 10, of the Constitution of North Dakota, which provides for expulsion for corruption, bribery, perjury, or other infamous crimes; Article IV, Section 12, of the Constitution of North Dakota, which prohibits contempt or disorderly behavior; North Dakota Century Code Chapter 12.1-12, which prohibits bribery and unlawful influence of public servants; North Dakota Century Code Section 12.1-13-01, which prohibits disclosure of confidential information; North Dakota Century Code Section 12.1-13-02, which prohibits acquisition of a pecuniary interest in property or an enterprise in contemplation of official action or in reliance on information accessed as a public servant; North Dakota Century Code Section 12.1-13-03, which prohibits a public servant from becoming interested individually in the sale or lease of property or a contract for which the public servant is authorized to transact; North Dakota Century Code Sections 12.1-14-02 and 12.1-14-03, which prohibit interference with voting; North Dakota Century Code Sections 12.1-23-03 and 12.1-23-05, which prohibit theft to obtain services while a public servant; North Dakota Century Code Section 12.1-23-07, which relates to the use of property entrusted to a public servant; North Dakota Century Code Chapter 16.1-08.1, which relates to campaign contributions and campaign contributing statements; North Dakota Century Code Chapter 16.1-09, which relates to statements of interest; North Dakota Century Code Chapter 16.1-10, which relates to corrupt practices; North Dakota Century Code Sections 39-01-03 and 39-01-05, which prohibit the private or political use of state motor vehicles; North Dakota Century Code Section 44-08-19, which relates to political activities by public employees; North Dakota Century Code Section 48-01.2-08, which prohibits the interest in public contracts by a member of a governing board; North Dakota Century Code Section 54-02-01, which governs the use of the Great Seal; North Dakota Century Code Chapter 54-05.1, which relates to legislative lobbying; and North Dakota Century Code Section 54-06-12, which prohibits false statements regarding state departments, institutions, or industries.

1004. Legislative ethics classes - Publication of information relating to ethics. During each organizational session and at other times as deemed appropriate, the Legislative Council shall conduct classes on legislative ethics and laws governing the activities and conduct of public officials, including criminal laws, election practices, and conflicts of interest. Before each regular legislative session, the Legislative Council shall distribute a document to all members which includes constitutional provisions, statutes, legislative rules, and other pertinent information regarding ethical conduct in the legislative process.

2015 Legislative Rules Changes

None of the legislative rules changes recommended by the Legislative Procedure and Arrangements Committee affect any provisions directly related to legislative ethics issues. However, the Legislative Procedure and Arrangements Committee adopted a revised *Policy on Use of Personal Computers by Legislators*. Because this policy sets out accepted principles of legislative conduct, it appears members of the Legislative Assembly are ethically obligated to comply.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Seventieth General Assembly of the State of Colorado (2016) ***

TITLE 24. GOVERNMENT - STATE
ADMINISTRATION
ARTICLE 18. STANDARDS OF CONDUCT
PART 1. CODE OF ETHICS

C.R.S. 24-18-113 (2016)

24-18-113. Board of ethics for the general assembly - created - duties

(1) (a) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(b) The terms of the members appointed by the majority and minority leaders of the house of representatives and the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the majority and minority leaders of the house of representatives and the senate shall each appoint or reappoint members in the same manner as provided in paragraph (a) of this subsection (1). Thereafter, the terms of members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the majority and minority leaders of the house of representatives and the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall continue in office until the member's successor is appointed.

(c) The members of the board of ethics for the general assembly are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, C.R.S.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

HISTORY: Source: L. 88: Entire article added, p. 905, § 1, effective July 1. L. 2007: (1)

amended, p. 181, § 13, effective March 22.L. 2014: (1)(c) added, (SB 14-153), ch. 390, p. 1963, § 13, effective June 6.

View

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C.R.S. 24-18-113 (Copy w/ Cite)

Pages: 2



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Colorado House Rules regarding Legislative Ethics Committee

(a) Any person who has knowledge concerning misconduct involving legislative duties by a member of the House, including but not limited to the alleged violation of the Rules of the House of Representatives or of section 40 of article V of the state constitution, may file a written, signed complaint with the Speaker setting forth the facts that constitute the alleged misconduct and specifying the statutes, rules, constitutional provisions, or other ethical principles alleged to have been violated. The Speaker shall provide the member complained against with a copy of the complaint. The Speaker shall consult with the majority leader and the minority leader about the complaint. The Speaker may ask the member complained against to provide an explanation of his or her understanding of the issues raised in the complaint for the purpose of assisting the Speaker, the majority leader, and the minority leader in making a preliminary determination of whether or not the complaint appears to be meritorious. The fact that a complaint has been filed and any documents relating thereto shall be kept confidential by the Speaker, the majority leader, and the minority leader. If at least two of the three leaders conclude that the complaint does not appear to be meritorious, the complaint shall be dismissed, and the complainant and the member complained against shall be so notified. If the complaint is dismissed, it shall continue to be kept confidential by the Speaker, the majority leader, and the minority leader.

(b) If the complaint is not dismissed pursuant to subsection (a) of this rule, the Speaker shall appoint a committee on ethics, which shall consist of not less than five nor more than seven members. The party representation on the committee shall be in proportion generally to the relative number of members of the two major political parties in the House. The majority party members of the committee shall be selected from among the chairmen of committees of reference of the House. The minority party members of the committee shall be selected, after considering recommendations by the minority leader, from among the members of the House who are senior in service and experience. The Speaker shall designate the chairman and vice-chairman of the committee from among its members.

(c) The person complained against may submit a written answer to the committee within ten days after appointment of the committee. The committee shall make a preliminary investigation of the complaint. The preliminary investigation shall consist of an examination of the complaint, the answer, if any, and any other evidence compiled pursuant to the request of the committee, but the committee shall not receive testimony or other evidence from other sources. The preliminary investigation shall be completed within thirty days after appointment of the committee. If, after the preliminary investigation, the committee determines no violation has occurred, the complaint shall be dismissed.

(d) If, after the preliminary investigation, the committee determines probable cause exists to find that a violation may have occurred, it shall so notify the person complained against. Within seven days after such notification, such person may request a hearing before the committee, at which he or she shall be entitled to appear, present evidence, cross-examine witnesses, and be represented by counsel. The committee shall have the power to take testimony under oath and

to issue subpoenas and subpoenas duces tecum in the manner provided by Joint Rule No. 33 (b), (c), and (d) of the Joint Rules of the Senate and House of Representatives. The hearing shall commence within fourteen days after receipt of the request for a hearing.

(e) All proceedings of the committee shall be governed by the provisions of part 4 of article 6 and part 2 of article 72 of title 24, Colorado Revised Statutes.

(f) After a hearing held pursuant to subsection (d) of this rule, the committee may dismiss the complaint, or, if it finds that action should be taken against the member complained against, it shall make appropriate recommendations to the House of Representatives, including reprimand, censure, or expulsion. Expulsion of a House member shall require the affirmative vote of two-thirds of the members elected to the House. Reprimand or censure of a member shall require the affirmative vote of a majority of the members elected to the House.

(g) Action of the leadership, the ethics committee, or the House pursuant to this rule is final and not subject to court review. Nothing in this rule shall prohibit the House of Representatives from taking any action based upon its authority to judge the qualifications of its members pursuant to Section 10 of Article V of the state Constitution.

(h) The committee may retain such counsel and may hire such investigators as it deems necessary for the performance of its duties under this rule. All expenditures incurred pursuant to this subsection (h) shall be approved by the Speaker and paid by vouchers and warrants drawn as provided by law from appropriations made to the General Assembly.

(i) The committee may adopt rules of procedure for the orderly conduct of its meetings, investigations, and hearings, which rules shall be consistent with this rule and other applicable rules and statutes.

(j) If the complaint concerns misconduct of the Speaker, then the duties of the Speaker in this rule shall be the duties of the majority floor leader and the duties of the majority floor leader shall be the duties of the assistant majority leader. If the complaint concerns misconduct of the majority floor leader or the minority leader, then the duties of such leader in this rule shall be the duties of the assistant majority leader or the assistant minority leader, as the case may be.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1431

Page 1, line 2, after "committee" insert "; and to provide a legislative management study"

Page 1, after line 11, insert:

"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - LEGISLATIVE ETHICS COMMITTEE. During the 2017-18 interim, the legislative management shall consider studying the rules and procedures governing the legislative ethics committee, including terms of appointment, issuance of advisory opinions, investigation of complaints, and other related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

South Dakota lawmakers are moving swiftly to dismantle a set of ethics changes approved by voters last year, in what has become a heated battle between national forces over the role of money in politics.

The South Dakota House voted 54-13 this week to approve emergency rules to toss out the initiative, which established an independent commission to pursue ethics investigations against public officials, created public financing for elections and imposed strict limits on gifts from lobbyists and groups that employ lobbyists.

The bill is now before the state Senate, and a final vote could come this week.

The ballot initiative, pushed by a Massachusetts-based group called Represent.Us, won 51.6% of the vote in last November's elections.

Officials in the Republican-controlled state legislature, however, say the measure is poorly written and overly broad. South Dakota Gov. Dennis Daugaard has indicated that he would sign the repeal.

Last month, he took issue with the public-funding provision, which would direct up to \$4.7 million a year to pay for "democracy credits," taxpayer-funded vouchers that registered voters could use to underwrite candidates' campaigns. Daugaard said the money would be better spent on education.

Voters, the governor said, "were hoodwinked by scam artists who grossly misrepresented these proposed measures."

Josh Silver, director of Represent.Us, said the South Dakota repeal action mirrors the recent, failed attempt by Republicans in the U.S. House of Representatives to gut their own independent watchdog agency.

South Dakota politicians could face an "enormous" voter backlash if they succeed in killing the measure, said Silver, whose group has been running ads in the state, slamming lawmakers for the repeal effort.

"There is nothing the American people hate more than the will of the people being overturned by establishment politicians," he said.

The fight also pits Represent.Us against the South Dakota chapter of Americans for Prosperity, the largest grassroots organization in the conservative political network tied to billionaire Charles Koch.

American for Prosperity (AFP) helped lead the unsuccessful effort to defeat the measure at the ballot box, arguing that the initiative's provision to require advocacy groups to disclose their donors trampled on free-speech rights. AFP members in the state this week are calling lawmakers to urge the repeal of ballot measure, known as Initiated Measure 22.

This week, AFP's South Dakota director Ben Lee said lawmakers are trying to "clean up the mess left behind by IM22."

"Legislative leaders should be commended for looking out for South Dakotans, preserving their rights and the Constitution," Lee said in a statement.

Represent.Us' funders include philanthropic groups, such as the William and Flora Hewlett Foundation and a foundation associated with movie director and Democratic donor J.J. Abrams. It is advocating bipartisan campaign-finance measures around the country.

The group's 2016 push into South Dakota came after a corruption investigation into state management of the federal EB-5 program, which grants green cards to wealthy foreigners in U.S. projects.

The Fix

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pg 3

South Dakota Republicans just got rid of the state's first independent ethics commission

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3-16-17

By Amber Phillips February 3

This post has been updated with the latest news.

South Dakota Republicans just did something that backfired spectacularly for congressional Republicans earlier this year: They got rid of an independent ethics commission designed to watch over them.

Ethics-advocates say the situation in South Dakota is even more egregious than the one in Washington given the independent ethics commission was approved by the voters themselves this November.

Along a mostly party-line vote this week, lawmakers passed a bill that repeals that voter-approved ethics reform package. Among other things, it aimed to set up the state's first ever independent ethics commission and put limits on campaign finance and lobbying access. Gov. Dennis Daugaard (R) signed the repeal bill into law on Thursday.



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GOP lawmakers claimed voters -- who approved the package by 51 percent -- were tricked into the reform package. In his December budget address, Dugaard declared that voters were "hoodwinked by scam artists who grossly misrepresented these proposed measures."

Republicans repealed the bill under a "state of emergency," which prevents voters from putting it back on the ballot in the next election.

ADVERTISING



Grassroots groups who helped get the ethics package approved were outraged. "It is un-American to reject election results, and the people will not forget this," said Doug Kronaizl, a spokesman with the anti-corruption group Represent South Dakota, which led protests on the normally sleepy state capitol against the repeal effort.

They pointed out that the reform package passed with bipartisan support, because there simply aren't enough Democrats in South Dakota.

"Did I agree with everything in Initiative Measure 22?" said state Senate Minority Leader Billie Sutton (D). "Probably not, but I think it's our job to respect the will of the voters and to fix pieces that may be considered unconstitutional."



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Six Republicans joined with the legislature's 16 Democrats to oppose the repeal, but Republicans have an overwhelming majority in the South Dakota legislature, and Republican lawmakers' opposition to the voter-approved ethics package was fierce.

Days after voters approved the package, 25 GOP lawmakers and a conservative lobbying group challenged the law in court, declaring that voters were tricked into supporting something that could be unconstitutional, for a variety of reasons. A South Dakota judge subsequently paused it from going into effect. Though the judge said some parts of the law could be "saved," GOP lawmakers decided it was better to start from scratch.

"It would only stand to reason from that logic that we repeal it in its entirety," state Rep. Larry Rhoden, one of the Republicans leading the repeal effort.

Rhoden said lawmakers are considering replacement ethics legislation and added there was no rush to do something: "We are pretty squeaky clean, and I can say that with a great deal of pride in South Dakota; the ethics among the people that serve the state in the legislature, I would call impeccable."

The nonpartisan Center for Public Integrity recently ranked South Dakota 47th in the nation for accountability, largely because of its lax lobbying laws. "Little to none of [state legislative and lobbyist interaction] is reported to the public in any detail," the report said.

The state has been wracked by two major ethics scandals in the past two years: Investigations into misuse of the federal green card program for wealthy immigrant investors and the theft by a private company of more than \$1 million of federal grant money to help Native Americans get ready for college.

As a grim aside, people implicated in both scandals either committed suicide or murder or both.

Republicans counter that this new ethics commission would not have been able to stop those scandals because they involved misuse of federal, not state, funds.

The whole saga has echoes of what happened in Washington earlier this year, except with a very different outcome for ethics advocates.

On the eve of Congress's first day back in session in 2017, Republicans in control of the House of Representatives pushed a provision that would have gutted an independent ethics office that investigates them. Republicans abruptly dropped the plan after public backlash from their constituencies and two tsk-tsk tweets from then-President-elect Donald Trump.

In South Dakota, proponents of the ethics reform package are out of options to save it. But they are pointing out what, from their vantage point, looks like irony. More than a century South Dakota was the first state in the nation to create a referendum process as a check on its legislature.

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This isn't the first time South Dakota lawmakers have tried to change a voter-approved ballot initiative. In 2014, voters passed a ballot measure increasing the minimum wage; GOP lawmakers again claimed voters didn't realize what they had done and passed legislation excluding anyone under 18 from the paycheck boost.

Minimum-wage advocates retaliated, successfully getting a referendum on November's ballot to override the legislature's changes to the law. That referendum passed by 71 percent, and the minimum wage went back up to \$8.50 an hour for all workers.

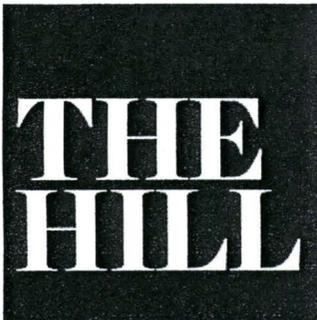
"We think it's pretty clear that the voters don't like when the legislature comes in and messes with our laws," Kronaizl said.

Amber Phillips writes about politics for The Fix. She was previously the one-woman D.C. bureau for the Las Vegas Sun and has reported from Boston and Taiwan. [Follow @byamberphillips](#)

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SD Republicans move to dismantle voter-passed ethics reforms

BY REID WILSON - 01/24/17 10:38 AM EST

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In November, South Dakota voters passed a ballot measure instituting campaign finance and lobbying reforms and creating the first independent ethics commission in the state's history.

In January, Republican state legislators are preparing to dismantle the measure — and take steps to ensure it never appears on the ballot again.

A state legislative committee voted Monday to repeal the new law, Initiated Measure 22, despite protests from ethics watchdogs who placed the measure on November's ballot. Ten Republicans voted to kill the measure, while one Republican and the committee's two Democrats voted to keep it.

The committee took the unusual step of implementing emergency rules, which would overturn the measure immediately and block a possible referendum that would allow voters to overturn the legislature's actions.

"This is a brazen overturning of the election results. It's a brazen rejection of the will of the people, and it will likely create a similar backlash to efforts to eviscerate the Office of Congressional Ethics a few weeks ago," said Josh Silver, a spokesman for Represent Us, which sponsored the law. "Everything in this law is common sense."

Republicans, who dominate South Dakota's government, object to a provision of the measure that would create taxpayer-funded credits that voters could use to contribute to their preferred candidates. In his state budget address, Gov. Dennis Daugaard (R) said that meant nearly \$5 million in funding would have to come out of other parts of an already-stretched budget.

"I believe it's not responsible to use taxpayer money to fund political campaigns at the expense of education, and I am certain the voters of this state do not support that," Daugaard told legislators. His budget proposal recommends leaving the voucher program unfunded.

"This is easily the worst drafting I've read in my 20 years in coming to the Capitol," Daugaard said. "It's vague, over broad, and it used undefined and inconsistent terms. This sloppiness leads to an endless number of bizarre and unintended consequences."

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The measure includes increased penalties for campaign finance and lobbying violations, and it would create an independent ethics commission to administer the voucher program and police state legislators.

A state judge blocked implementation of the law in December. The judge said a final decision on the law's constitutionality would rest with the South Dakota Supreme Court.

Legislators said the law is too cumbersome to unwind piecemeal, and that full repeal was the only option.

"I firmly believe we need to get rid of this, start over. It's better to throw it all out, start over so it's something done by South Dakotans and not from anybody else," House Majority Leader Lee Qualm (R) told the committee, according to the Sioux Falls Argus Leader.

Out-of-state groups accounted for most of the money both proponents and opponents used to campaign for and against the measure. Campaign finance reports filed with the South Dakota Secretary of State's office show Americans for Prosperity, a cornerstone of the Koch brothers' political network, contributed \$590,000 of the \$609,000 opponents raised, while supporters raised most of their money from a political action committee in Massachusetts.

Lawmakers will consider two bills to reinstate at least some of the ethics changes included in IM 22, including a limit on the value of gifts lobbyists can give to lawmakers and establishing a new accountability board to keep an eye on legislators.

The House will vote this week on whether to gut the ballot measure. The Senate would vote on the proposal next, and Daugaard has said he would sign a roll-back.

Ethics watchdogs have long ranked South Dakota among the worst states for political corruption. A 2015 study by the Center for Public Integrity ranked South Dakota 47th out of 50 states for ethics, and the state has been wracked by a series of scandals over a federal program that offers green cards to immigrants who invest in businesses that will create jobs.

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- This story was updated at 11:11 a.m.

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