

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1453

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-10 and a new section to chapter 54-35 of the North Dakota Century Code, relating to protections for individuals who report potential violations of law and the legislative audit and fiscal review committee; and to"

Page 1, line 1, after "reenact" insert "subsection 1 of section 34-11.1-04,"

Page 1, line 1, after "54-10-01" insert ", 54-10-26, and section 54-35-02.2"

Page 1, line 2, after "to" insert "protections for public employees who report potential violations of law,"

Page 1, line 2, after "auditor" insert ", state auditor working papers, and the legislative audit and fiscal review committee"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An employee may, without fear of reprisal, may report in writing to the employee's respective agency head, a state's attorney, the attorney general, the state auditor, or an employee organization the existence of:
  - a. A job-related violation of local, state, or federal law, rule, regulation, or ordinance.
  - b. The job-related misuse of public resources."

Page 3, line 8, remove the first "financial"

Page 3, line 10, after "state" insert "in accordance with government auditing standards"

Page 3, line 11, remove "financial"

Page 3, line 11, after "agencies" insert "in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 6 of this Act"

Page 4, line 27, replace "The" with "Except for performance audits conducted under subdivision d of subsection 1 of this section or subdivision b of this subsection and except for audits of occupational or professional boards, the state auditor shall execute the contract and any executive branch agency, including higher education institutions, shall pay the fees of the contractor. For performance audits conducted under subdivision d of subsection 1 of this section or subdivision b of this subsection, the"

Page 5, replace lines 5 through 13 with:

**"SECTION 3.** A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

### **Reporting noncompliance - Confidentiality.**

Information that reasonably may be used to identify an individual who reported suspected or potential violations of law or other irregularities to the state auditor is a confidential record under section 44-04-17.1.

**SECTION 4. AMENDMENT.** Section 54-10-26 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-10-26. State auditor's working papers.**

Working papers of the state auditor are not public records and are exempt from section 44-04-18. Working papers include records kept by the auditor of the procedures applied, the tests performed, the information obtained, draft audit reports, and the pertinent conclusions reached in the engagement. Working papers may be, at the discretion of the state auditor and unless otherwise prohibited by law, made available for inspection. A draft audit report associated with an audit completed using government auditing standards applicable to financial audits which is released to the governing body or management of the audited entity is confidential until the final audit report is issued or work ceases on the audit. ~~The issued audit report is public information at which time the audit report becomes public information.~~ Any other draft audit report released to the governing body or management of the audited entity is confidential until the final audit report is presented to the legislative audit and fiscal review committee at which time the audit report becomes public information. The respective working papers of an issued audit report or an audit report presented to the legislative audit and fiscal review committee are public. At the discretion of the state auditor, all or a portion of the working papers of ~~an issued a publicly available~~ audit report may be declared confidential. The declaration of confidentiality must state the reason for the confidentiality and the date, as can best be reasonably determined at the time, when the working papers will be made public.

**SECTION 5. AMENDMENT.** Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.**

The legislative audit and fiscal review committee shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any and all fiscal transactions and governmental operations of any department, agency, or institution of the state. The committee shall meet at least once each calendar quarter during each interim. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of

law by any state official or employee, the attorney general immediately shall prosecute such official or employee as provided by law. Whenever the committee may determine that a state agency, department, or institution has failed to correct an audit finding within two bienniums which the committee determines critically important, the committee may recommend the legislative assembly reduce the state agency, department, or institution's appropriation as compared with the amount appropriated to the agency, department, or institution for the previous biennium. The legislative management, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by the legislative council, is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as the legislative management may determine necessary.

**SECTION 6.** A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

**Legislative audit and fiscal review committee - Auditing guidelines.**

Each biennium, the legislative audit and fiscal review committee, in consultation with the state auditor, shall review updates to government auditing standards and develop guidelines for the contents of state agency audit reports. The legislative audit and fiscal review committee shall consider the following when developing the guidelines:

1. Applicable auditing standards;
2. Sound financial practices;
3. Compliance with laws and legislative intent;
4. Data analyses; and
5. The opportunity to improve the efficient and effective operations of state agencies."

Renumber accordingly