

HOUSE BILL NO. 1127

Introduced by

Representatives Heinert, Damschen, Dockter, M. Johnson, Kasper, Klemin, Lefor, Porter
Senators Dwyer, Bell

1 A BILL for an Act to amend and reenact sections 44-08-05.1 and 54-10-25 of the North Dakota
2 Century Code, relating to the disclosure of a pending investigation.

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

4 **SECTION 1. AMENDMENT.** Section 44-08-05.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **44-08-05.1. Payments - Purchasing card authority - Penalty.**

7 1. Any public officer or employee who has the power to approve a payment for travel
8 expenses or any other expenditure of public funds shall determine before approving
9 the payment:

10 a. That the expenditure for travel or other expenditures were for lawful and official
11 purposes.

12 b. If for employee travel reimbursement, the sums claimed for travel expenses are
13 actually due the individual who is seeking reimbursement, allowance, or
14 payment.

15 c. If the payment is for expenditure other than travel expense, that the expenditure
16 is lawful and that the payment contains no false claims.

17 2. The director of the office of management and budget, the state board of higher
18 education, the governing body of any political subdivision, and the board of any school
19 district may establish and administer a purchasing card system for use by its officers,
20 employees, representatives, or agents. If the director of the office of management and
21 budget establishes a cooperative purchasing contract under section 54-44.4-13, each
22 participating government entity is responsible for its purchasing card system.

23 3. An employee of the office of management and budget designated by the director of
24 the office of management and budget, on behalf of all state agencies, may review and

1 approve payments made with a purchasing card and make payments. The director of
2 the office of management and budget may designate the state agencies that are
3 required to use the purchasing card system.

4 4. Any public officer or employee who fraudulently uses a purchasing card or knowingly
5 approves a payment for false or unlawful claims or which does not otherwise meet the
6 requirements of this section for approval may be subject to criminal prosecution under
7 title 12.1. Any public officer or employee who, without the use of ordinary care and
8 diligence, uses a purchasing card or approves a payment for false or unlawful claims
9 or which does not otherwise meet the requirements of this section for approval is
10 personally liable for any funds improperly expended.

11 5. Any public officer, employee, or any other individual who has knowledge of an actual
12 or possible violation of this section shall make that information known to the attorney
13 general or the appropriate state's attorney. The attorney general or appropriate state's
14 attorney shall investigate any alleged violation. If there is probable cause to believe
15 that a violation has occurred, the attorney general or appropriate state's attorney shall
16 initiate a criminal prosecution under title 12.1 or a civil suit against the public officer or
17 employee for the recovery of the funds as may actually have been improperly paid, or
18 may initiate a prosecution and a civil suit. Any public officer, employee, or any other
19 individual who has provided information to the attorney general or a state's attorney
20 under this subsection shall keep the information confidential until a determination is
21 made as to whether a criminal prosecution is warranted.

22 **SECTION 2. AMENDMENT.** Section 54-10-25 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-10-25. Divulging of certain secret information prohibited.**

25 1. The state auditor and the auditor's employees, including any person employed by the
26 auditor to perform the examination of any return, report, or other information filed and
27 in the possession of the tax commissioner which is made confidential by law, may not
28 divulge the contents of any return, report, or other information examined or any listing
29 made therefrom by the state auditor or the auditor's employees except when otherwise
30 directed by judicial order, or as is otherwise provided by law.

- 1 2. The state auditor, the auditor's employees, or an agent of the auditor may not divulge
- 2 any information relating to a matter forwarded to the attorney general or a state's
- 3 attorney for further investigation until the attorney general or state's attorney has made
- 4 a determination as to whether there is probable cause to believe a violation of law has
- 5 occurred.