

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1127  
(Representatives Heinert, Damschen, Dockter, M. Johnson, Kasper, Klemin, Lefor, Porter)  
(Senators Dwyer, Bell)

AN ACT to amend and reenact sections 44-08-05.1 and 54-10-25 of the North Dakota Century Code, relating to the disclosure of a pending investigation.

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

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

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

1. Any public officer or employee who has the power to approve a payment for travel expenses or any other expenditure of public funds shall determine before approving the payment:
  - a. That the expenditure for travel or other expenditures were for lawful and official purposes.
  - b. If for employee travel reimbursement, the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
  - c. If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.
2. The director of the office of management and budget, the state board of higher education, the governing body of any political subdivision, and the board of any school district may establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. If the director of the office of management and budget establishes a cooperative purchasing contract under section 54-44.4-13, each participating government entity is responsible for its purchasing card system.
3. An employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all state agencies, may review and approve payments made with a purchasing card and make payments. The director of the office of management and budget may designate the state agencies that are required to use the purchasing card system.
4. Any public officer or employee who fraudulently uses a purchasing card or knowingly approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval may be subject to criminal prosecution under title 12.1. Any public officer or employee who, without the use of ordinary care and diligence, uses a purchasing card or approves a payment for false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended.
5. Any public officer, employee, or any other individual who has knowledge of an actual or possible violation of this section shall make that information known to the attorney general or the appropriate state's attorney. The attorney general or appropriate state's attorney shall investigate any alleged violation. If there is probable cause to believe that a violation has occurred, the attorney general or appropriate state's attorney shall initiate a criminal prosecution under title 12.1 or a civil suit against the public officer or employee for the recovery of the funds as may actually have been improperly paid, or may initiate a prosecution and a civil suit. Any public officer, employee, or any other individual who has provided

information to the attorney general or a state's attorney under this subsection shall keep the information confidential until a determination is made as to whether a criminal prosecution is warranted.

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

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

1. The state auditor and the auditor's employees, including any person employed by the auditor to perform the examination of any return, report, or other information filed and in the possession of the tax commissioner which is made confidential by law, may not divulge the contents of any return, report, or other information examined or any listing made therefrom by the state auditor or the auditor's employees except when otherwise directed by judicial order, or as is otherwise provided by law.
2. The state auditor, the auditor's employees, or an agent of the auditor may not divulge any information relating to a matter forwarded to the attorney general or a state's attorney for further investigation until the attorney general or state's attorney has made a determination as to whether there is probable cause to believe a violation of law has occurred.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1127.

House Vote:    Yeas 62            Nays 31            Absent 1

Senate Vote:    Yeas 45            Nays 1            Absent 1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State