

2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1411

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1411
1/26/2017
27475

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hail

Explanation or reason for introduction of bill/resolution:

Relating to political contribution statements

Minutes:

Attachments 1-4

Chairman Kasper opened the hearing on HB 1411.

Rep. Karla Rose Hanson introduced the bill. Attachment 1 (:33-4:09)

Rep. B. Koppelman: Was this a bill that the Secretary of State came to you with?

Rep. Hanson: No, it was an experience I had, and so I went to Elections Specialist, Lee Ann Oliver, and asked if we could make this change to the form. She said we could but in order to do so, we would need to make a change in the Century Code.

Rep. B. Koppelman: This sounds like a programming issue that they could deal with without law. How does it make any difference? Is there a fiscal note for reprogramming or anything like that?

Rep. Hanson: Initially, I didn't think it would need to be a bill to make this change, but that is what I was told by Lee Ann Oliver of the Secretary of State's Office. Maybe a lot of people feel it doesn't matter. I feel as a candidate I am going to be as clear as possible in what I am getting. We report our donations in the aggregate, so if you give me three donations over the course of the campaign period, I am not detailing out what each of those are. There is not a fiscal note.

Chairman Kasper: According to your understanding of the law right now, could any candidate report in kind contributions if they so desire on the format we have?

Rep. Hanson: Yes. As you see in my example in the testimony, if you have something that is entirely in kind, you would check the little box. We have that available. What we don't have available is the ability to say it is a combination. This would change that little box that says in kind to say indicate if it is all financial, all in kind, or a combination.

Chairman Kasper: Let's say this individual have given you \$201 in cash. Based upon the format that is there now, how would you have reported that additional \$201 based upon the fact that you reported the in kind of \$345.73?

Rep. Hanson: I would add \$345.73 plus \$201 for that total dollar amount, but then I would have to choose, either checking it as in kind or leaving it as all financial. There is no other way to say it is a combination of both.

Chairman Kasper: You could not have done a second line that would have said \$201 and not checked in kind?

Rep. Hanson: We are supposed to do in aggregate.

Chairman Kasper: Your concern is the wording? We are supposed to aggregate.

Rep. Hanson: Yes.

Rep. Schneider: Did you discuss separating those and come up with an aggregate where there are two different kinds of donations, so you could see particularly how much was in kind and how much was financial and have an ability to aggregate those?

Rep. Hanson: I did discuss that with Lee Ann Oliver and the Deputy Director of State. The concern with that would be that candidates would have to track potentially a lot of small donations and report the details. I think there is not the appetite to report out lots of small donations.

Dennis Cooley, Professor of Ethics and Philosophy at North Dakota State University, appeared in support. Attachment 2. (:13:06-19:07)

Chairman Kasper: You cited the Center for Public Integrity which is an old friend of this committee. Attachment 3 was printed off by the law intern and distributed to the committee. Have you studied that document for the state of ND and looked at how they came to the conclusions they came to and if you have, can you tell us something about that study and why you cite it in your testimony based upon the fact I think it is sort of a flawed study?

Dennis Cooley: It is a flawed study. The main reason they seem to have their conclusion is they expect there to be processes in place including a very robust ethics commission. I disagree with them thinking that small is bad. One of the things about ethics is how do you get people to do the ethical thing? It is being in a particular society, their expectations. Here are our role models. Here is what you are supposed to be like. That is the most effective way of getting folks to do things. Sometimes you have to have things codified so that everybody knows what the standard is such as what we are talking about here.

Chairman Kasper: Have you done studies particularly in ND alone on the perceived problems or goodness about the ethics of elected officials? Have you written any papers that talks about your study or your findings?

Dennis Cooley: I haven't written any papers. In 2013 we started looking at the Northern Plains Ethics Journal which is something that we have for the Northern Plains Ethics Institute. John Olsrud wrote an article for us.

Chairman Kasper: He used to be the Chief Officer of Legislative Council.

Dennis Cooley: Right. We have anecdotal information of how people are perceived. What we are going off of here is constituents, and we had studied the values of different places in North Dakota. For example, a former graduate was researching the newcomer values versus the values of the old term residents. One of the issues turned out to be how well do the legislators respond to the community concerns and what they are doing and how they are planning, etc. The old term residents had a huge amount of satisfaction in their legislative folks. The newcomers, not so much so, because they didn't know. That is the issue I am addressing.

Chairman Kasper: Since 2013, have you taken the time to interview any state elected officials or legislators to dig in about what you could find by talking to the real people?

Dennis Cooley: I have really quite good relationships here of the representatives. He mentioned a few.

Chairman Kasper: Have you taken time to interview any of those folks and done any analysis or written papers on them?

Dennis Cooley: Just informal meetings.

Rep. Vetter: Is not ethics how you act, behavior? Does changing an in kind contribution to a regular contribution make them more or less ethical?

Dennis Cooley: This is a minor change. This is not going to make someone suddenly be a totally good or bad person. We have to be very clear about everything we do. Some people give both the in kind and the cash amount. Maybe I would give \$50. I want that \$50 expected as \$50, and if I am giving \$1,000 of my time, I want people to know my time is going into that. You might say you just flip it. That is not accurate. Accuracy is the way we avoid mistakes, and if you avoid a mistake, you can avoid bad things happening later.

Chairman Kasper: A lot of us have volunteers on our campaigns. Is that an in kind contribution?

Dennis Cooley: I don't know. I go by expert advice. That is your decision. If you make a report of volunteer time, I don't think those who have a lot of people volunteering would ever be able to get it all in.

Opposition:

Jim Silrum, Deputy Secretary of State, appeared in opposition. I would like to correct the record a little bit. The first question that Lee Ann Oliver addressed was could in kind contributions be reported separately from money contributions? That is where she said no.

That would take a law change. By the way in the first section of 16.1-08.1 there is a definition for what a contribution is and what a contribution is not. A contribution does include in kind contributions. It does include monetary gifts, and it also goes on to list the things that are not. You do not have to report volunteers' time. Attachment 4. (32:30-36:55)

Vice Chair Louser: What would we be considering in kind? Should we be reporting if somebody gives us the use of their computer or space, or if I have somebody on my campaign that volunteers their time to be my treasurer, but in their real life, they are an accountant? Now they are providing me professional services for free as opposed to a volunteer that says I will just run your checkbook. Are we talking about all of these things being in kind, and should they be reported?

Jim Silrum: In many of those mentioned situations, there would not need to be a reporting requirement. However, if you needed an attorney for your campaign and went to one and asked him to provide legal services for you, then that probably would be a reportable contribution. If an attorney happens to be on your committee and volunteering and giving you some caution advice about doing such things from a legal standpoint, I don't believe that would be a reportable contribution.

Vice Chair Louser: Under the current system if a contributor was to give a candidate a reportable contribution of \$500 and two weeks later gave of their time or something that is a reportable in kind, the system would recognize that contributor as a second contribution? We would click the box that says in kind full or in part, and the system would aggregate the first and the second assuming that we know the value of the in kind to be \$300 the second time, the system would recognize and aggregate \$800 in part in kind?

Jim Silrum: Correct, provided that when your entering that contribution, you do select the individual that gave to you previously. The system cannot tell that James Silrum is the same as Jim Silrum. You have to be the one to designate that.

Vice Chair Louser: Even if that were the case, there would be two contributions showing up in the same report?

Jim Silrum: Correct. Where it sometimes gets difficult is that the second amount they want to insert is let's say \$50, so the aggregate total would be \$550, but the contribution would be \$50 and you are not to report any of those.

Rep. B. Koppelman: Is it correct that once you hit that threshold of a combined number, it becomes reportable?

Jim Silrum: Correct.

Rep. Schneider: What are the differences on these two screen shots?

Jim Silrum: The screen shot of the first one is the reported amount of a contribution that has already been entered. In a way our office contributed to the problem that exists right now. Because we had so many questions like receiving yard signs from a company and wondering if that had to be reported, thinking we could make it easier for you, we added the

in kind checkbox for you. Now the questions were I have an in kind contribution and a money contribution from the same individual, how now do I report them?

Rep. Schneider: One does not allow you to talk about the aggregate of both in kind and cash and one does. I want to say what it is and in a way that really complies with the minutia of the law. How do we make the language consistent with the rules?

Jim Silrum: The screen shot from Rep. Hanson's testimony is a screen shot of a reported contribution. It is essentially the header that you would see like in an excel spreadsheet. I will take that back as a note and say we should probably put parentheses around all or in part. That is not a place where one enters a contribution. The screen shot that I gave you is the actual method in our online system by which you enter contributions and by which you can designate them as in kind or not.

Rep. Schneider: Can we change this and can we do it now?

Jim Silrum: That change you are discussing would not take a law change.

Rep. Olson: Right now if a contributor gives us \$100 cash and they gas up our volunteer team to the tune of \$100 worth of gas and give \$100 worth of gold and another \$100 worth of yard signs, the way it would look is the \$400 value worth of combination of federal reserve notes and everything else is what is reportable. Right now all the law is asking for is give us the total value of all types of contributions whatever they may be, turn them into dollars, but the addition of this box in kind all or in part has added confusion to the mix along with the report. If we wanted to do what this bill is asking to do to aggregate, all the in kind donations under one value and all the cash donations under another value, would it require a change in your system?

Jim Silrum: Anything is possible. Under this bill the wording is not asking for that. For each donation that you have, much like you already do now, it doesn't change the reporting requirements. It essentially adds a checkbox for money, in kind contributions, or a combination of both. It would still be reported in the aggregate, but if your aggregate contribution is both in kind and monetary, you would designate it as such.

Rep. B. Koppelman: My understanding is that the law does not require a candidate to differentiate between cash and in kind. It requires the candidate to say I received this money and it is over the \$200. Is it correct that I don't need to worry about whether the checkbox is checked or not?

Jim Silrum: Correct.

Rep. Schneider: This is what the public sees even though Rep. Koppelman has done nothing wrong. It would give an inaccurate portrayal of where those funds came from just by the checkbox in the form. Isn't that right?

Jim Silrum: Consider it done. I will have my vendor put parentheses behind that column header and it will be made clear.

Rep. Hanson: I would like to suggest the committee consider an amendment to Page 5, Lines 16-17. There is a suggestion change to the multicandidate committee. That was not my intention. Feel free to remove that.

Chairman Kasper closed the hearing.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1411
2/17/2017
28493

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to political contribution statements

Minutes:

Chairman Kasper opened the meeting on HB 1411. I know that the Senate addressed this with the Secretary of State to try to come up with something that works with the system and not create a large cost to redo the computer system for the Secretary of State.

Vice Chair Louser made a motion for a DO NOT PASS on HB 1411.

Rep. Rohr seconded the motion.

Vice Chair Louser: Assuming this is addressed in the other bill, I think this is something we have to be particularly aware of because if we were to change the reporting for an in kind contribution that is going to require a change in the programming for the Secretary of State's site, that may change our ability to enter multiple contributions and then have them aggregate. If reference in SB 2343 to in kind contributions is being made, we need to ask that question of programming with the Secretary of State. I want the committee to be aware that when that comes over, we need to ask that question.

Rep. Schneider: I did not see in the Senate bill exactly what is embodied in the bill that we have before us, and I would feel a lot better if we had both of those bills put together and to consider. Also, there wasn't much creditability in the fiscal note after the testimony that indicated that the Secretary of State's Office said that there would not be much of any cost. It would fit into the programming of the current system. Then we see this fiscal note that is really out of line compared to the Senate bill which is only \$50,000 for all the changes that have to be made. I do think it is worth passing so that we can compare the contents of this bill with the Senate one. This also was a bill that received positive support from the professor of ethics, Dennis Cooley.

Rep. Steiner: Given that we really are taking care of this issue in one package makes sense, and we really don't have a problem. My constituents find that reporting we have today is

absolutely fine. We actually are going above and beyond with this legislation that we are going to package.

Chairman Kasper: Rep. Schneider, this may not be addressed quite the way this is or maybe not at all in 2343. It is a pretty technical bill, but if this is an issue that the committee wants to take up in the bill that comes to us and address in kind in that bill, we certainly have the opportunity to amend that bill. Today we have to take action on it either way.

Rep. B. Koppelman: We also heard from Mr. Silrum that the technical concern that we were given handouts from the bill sponsor on that showed the in kind checkbox, etc. wasn't intended to be confusing, but the law calls for it to be an aggregated amount of all donations. They can even pull the checkbox out of there to relieve confusion, because they would still be within state law. At the end of the day it is how much you donate to your campaign.

Rep. Schneider: There are individuals and groups that have major problems with us not having ethics regulations in place. Without the initiation of any candidates that I know of or any elected officials, there was a major ethics forum set up with an organization ___. It was a bipartisan one. It was a community initiative at least according to the panel, and they basically said if we don't do something about getting ethics regulations in place, there will be an initiated measure. I am glad to see we are taking it seriously and that the Senate is too, because there has been a public outcry.

Vice Chair Louser: I am on the Secretary of State's website. I am looking at one of the candidate's reports that had an in kind contribution, and nothing has changed since we heard the bill. I think it is an aggregate and I think the in kind checkbox is a bit confusing, because we as candidates are given direction as to how to report that. It would be my suggestion that when this bill comes over and the Secretary of State is here, we address the reporting of in kind separately, or we just give candidates the directive to make the in kind contribution part of the financial report and not separate so there is no confusion.

A roll call vote was taken. 12 Yeas, 1 Nay, 1 Absent.

Vice Chair Louser will carry the bill.

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

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1411**

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 Louser Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
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) 12 No 1

Absent _____

Floor Assignment Louser

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

REPORT OF STANDING COMMITTEE

HB 1411: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING).
HB 1411 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1411

Attachment 1
1411
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HB 1411

Testimony by Rep. Karla Rose Hanson - Jan. 26, 2017

Chairman Kasper and members of the Committee, my name is Karla Rose Hanson, and I represent District 44 in Fargo. I'm here to introduce HB 1411 & ask you to give it a 'do pass' recommendation.

This is a very simple bill that enables the Secretary of State's office to make a minor adjustment to our online campaign finance system to further clarify candidate disclosures.

Currently, legislative candidates and statewide candidates as well as candidate committees, PACs, political parties and measure committees are required to report all contributions in excess of \$200 in the aggregate - including the donor's name and the date of their last reportable contribution.

Some time after our online campaign finance system was built, the Secretary of State's office added the capability for candidates to indicate if a donation was an "in-kind contribution" -- a non-monetary item such as printing services, materials for signs, or food or wine for a fundraiser. Candidates can indicate if a gift is in-kind by checking a box as illustrated here:

Name	Address	Date	Amount	In-Kind	Amended Date
Erin Ceynar	1844 Tioga Blvd St Paul, MN 55112	04/10/16	\$345.73	<input checked="" type="checkbox"/>	

The problem is because candidates in ND report contributions in the aggregate, we don't have the flexibility to indicate when we receive BOTH financial and in-kind donations from the same person.

For example, if I were to receive a \$250 check from a neighbor and \$250 in sign materials, I should report an aggregate contribution of \$500. But in the current system, I'd have to label it as either financial or in-kind. One of the bill's co-sponsors, Sen. Myrdal, signed on because she experienced this same limitation during her campaign. She received both types of donations from individuals and -- because the system only let her label the aggregate as either a financial donation or an in-kind donation -- she had to go back to her donors and ask them what label they preferred.

With HB 1411, we add language to each applicable candidate type throughout section 16.1-08 to say, "For each listed contributor, the aggregate contribution amount must be designated as money, an in-kind donation, or a combination of money and an in-kind donation."

This bill would change that "in-kind" checkbox to a field that enables candidates to indicate that a donor's total gifts are all financial, all in-kind, or a combination of both. This will help ND candidates be as clear and transparent as possible in their campaign finance reporting.

Staff at the Secretary of State's office told me it would be an easy system change and would not be a burden in terms of ongoing work. However, to justify the system change, Elections Specialist Lee Ann Oliver asked that this clarification be added to the century code.

Chairman Kasper and members of the Committee, this is a small and simple change that enables candidates to be more clear and transparent with the public. I ask you to recommend a "do pass" on HB 1411 and I will stand for questions.

Attachment 2
1411
1-26-17

Dennis Cooley

House Bill No. 1411

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 1411. The change is minor, but helps make the form much clearer as to what the contribution is. It makes a lot of sense to be able to be specific in these matters, especially to constituents.

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.

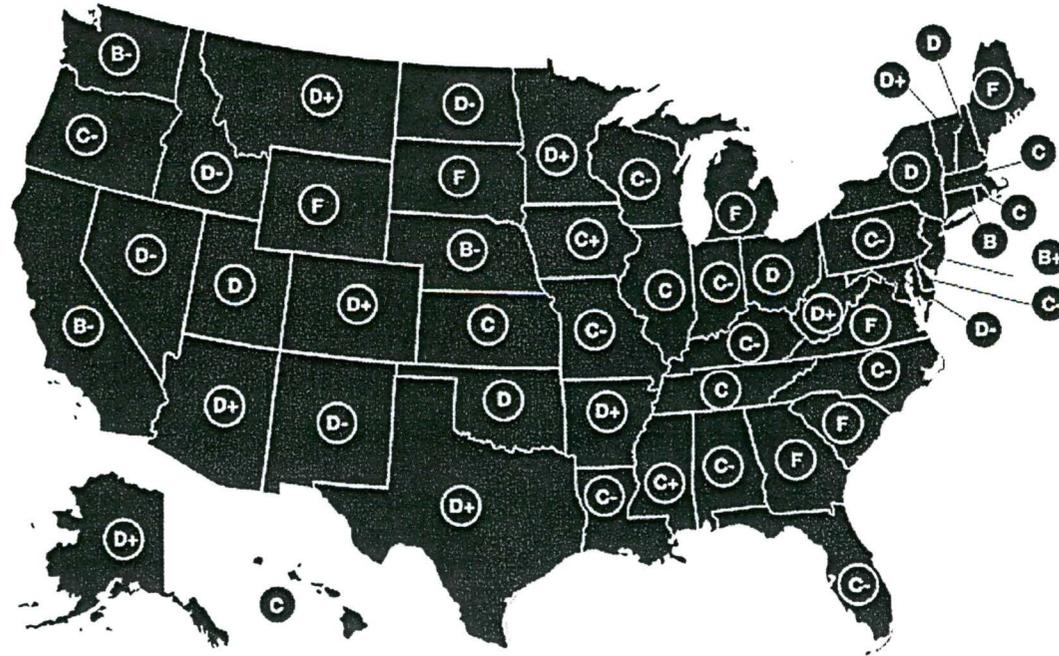
Fortunately, we have an opportunity this session to take those little steps required to keep or rebuild the trust in our legislators and legislative process that each deserve. By passing this bill, and making it into law, we keep things working efficiently – which is part of what ethics is all about. 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.

State Integrity 2012

Grading the nation: How accountable is your state?

By Caitlin Ginley 12:01 am, March 19, 2012 Updated: 4:55 pm, November 10, 2015

A project of



Note: The last article concerning the grade was in 2012 when North Dakota was ranked an F. See the attached article.

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State Integrity 2012

North Dakota gets F grade in 2012 State Integrity Investigation

Why North Dakota ranked 43rd of 50 states

By Teri Finneman 12:01 am, March 19, 2012 Updated: 5:08 pm, November 2, 2015



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In a rural, closely-knit Plains state garnering national praise and attention for its booming economy, government officials aren't going to agree with a newly-released survey criticizing their practices.

North Dakota earned a solid F and a score of just 58 on state government accountability and transparency, ranking it 43rd among the nation's 50 states, in the *State Integrity Investigation* conducted by the Center for Public Integrity, Global Integrity and Public Radio International.

The score takes into account the lack of a state ethics commission and campaign finance laws considered lax. North Dakota doesn't require candidates to report how they spend campaign money, and asset disclosure forms require only vague information.



North Dakota

Corruption Risk Report Card
Rank among 50 states: **43rd**

Overall grade: **F**

Click a category to see detailed scores and notes.

Public Access to Information C <small>view</small>	Political Financing F <small>view</small>
Executive Accountability D- <small>view</small>	Legislative Accountability F <small>view</small>
Judicial Accountability C <small>view</small>	State Budget Processes B- <small>view</small>
State Civil Service Management F <small>view</small>	Procurement A <small>view</small>
Internal Auditing A <small>view</small>	Lobbying Disclosure F <small>view</small>
State Pension Fund Management F <small>view</small>	Ethics Enforcement Agencies F <small>view</small>
State Insurance Commissions F <small>view</small>	Redistricting F <small>view</small>

Many of the watchdogs that exist elsewhere are not part of the landscape in Bismarck, the state capital. Residents in the Peace Garden state — just 684,000 in all —believe they can pretty much be trusted to police themselves.

“Politics is personal . . . in a place where everyone knows everyone else,” notes *The Almanac of American Politics*. “For years there has been no voter registration because people obviously spot anyone who is not eligible.”

But whether this folksy approach to government creates the best results is questionable for those in favor of more regulations.

And so the state making national news for its thousands of job openings, low unemployment, booming oilfields and large state budget surpluses now finds itself ranking in the bottom 10 of a national analysis.

Find your state's grade

What grade did my state get? Find it in the drop-down menu below.

Select a state: ▾

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Email address

The North Dakota way

The ranking doesn't surprise some close to state government, but they don't agree with it either. Beyond criteria, lists and data points, many state officials and residents take pride in what local politicians here refer to as “the North Dakota way.”

While states like Illinois have faced a rash of corrupt officials and deficit spending, North Dakota has breezed through recent years with popular state officials, a booming diversified economy and tax relief for residents. The state had more than 20,000 job openings in December and was already on its way to another state budget surplus of hundreds of millions of dollars.

North Dakota's small population makes it more likely residents will personally interact with their government officials. The high social capital—or connections among people—and the rural environment also create an expectation that elected state officials have the same “North Dakota work ethic” for which the agricultural state is known.

“North Dakota has been known as one of the most open states from the top—governor's office— down to the smallest committee structure of a township,” said Roger Bailey, executive director of the North Dakota Newspaper Association.

Accessibility is particularly evident in the legislative branch. State legislators do not have personal staff or offices and handle their individual correspondence. They also publish their personal phone

State Integrity 2012



A data-driven analysis of transparency and accountability in all 50 state governments.

Stories in this series



Grading the nation: How accountable is your state?

By Caitlin Ginley March 19, 2012



Georgia: Worst score in the country

By Jim Walls March 19, 2012



New Jersey: Best score in the country

By Colleen O'Dea March 19, 2012

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North Dakota gets D-grade in 2015 State Integrity Investigation

By Tu-Uyen Tran November 9, 2015

numbers for constituents to call them directly and allow residents to walk up to their desks in the legislative chamber to chat.

"You have more direct access to your representatives in this state than anyplace else," said Rep. Kathy Hawken, R-Fargo.

It's nice to walk through the Capitol and talk to legislators without going "through a bunch of hoops with their staff, like other states," added Dustin Gawrylow, director of the North Dakota Taxpayers Association.

Although Republicans and Democrats disagree on the level of state oversight needed, both parties agree government openness and accessibility here is unlike any other state.

"The people are watching us. They know how to get ahold of us and, if we do something stupid or they don't like, they're going to hold our feet to the fire on it," said conservative state lawmaker Blair Thoreson of Fargo.

That's their story. Rankings aside, they're sticking to it.

A belief in limited government

Just as demographics influence the state's openness, North Dakota's political makeup explains some of the low scores on the *State Integrity Investigation* scorecard.

Republicans oversee all but one of the state agencies headed by an elected official and make up about 75 percent of the Legislature as well. They believe in limited government, and many are philosophically opposed to more regulations or the additional bureaucracy of a state ethics commission.

During the 2011 legislative session, the House killed a bill to create an ethics commission on a 25-68 vote, with every Republican but one voting against it. Thoreson, one of those who voted against the bill, said an ethics commission isn't necessary.

"If there's something that people don't like, trust me, we're going to hear about it," he said.

Hawken, a moderate Republican, also voted against the bill, saying the ballot box should in effect be the state ethics commission.

But Democrats say a commission is needed. Democrat Corey Mock, a Grand Forks legislator who sponsored the recent bill, said legislators from other states can't believe North Dakota doesn't have such a body.

"We're so quick to say there's no need for an ethics commission, but what kind of message are we as a state sending?" he said.

The fact that Republicans voted down the ethics commission "speaks volumes about the issue of public integrity," said Mark Schneider, former chairman of the state Democratic Party.

Others aren't so sure. Jack McDonald, a state media attorney and lobbyist, said he doesn't know what a North Dakota ethics commission would do since the state doesn't appear to have the sort of problems with cronyism and bribery that come up elsewhere.

Gawrylow, director of the taxpayers association, also wondered how much good a commission would do.

"An ethics commission made up of people who are all looking out for themselves and each other isn't going to do anybody any good," he said. "You're better to not have one than to have one that doesn't work."

A "different breed of cat"

Veteran political observers here say other low rankings on the scorecard are due to the fact that North Dakota does not have a full-time legislature.

For example, there aren't restrictions for legislators entering the private sector after leaving government because the citizen legislature only meets in session 80 days every two years. Legislators who aren't retired from other careers take a leave of absence from their regular jobs for legislative duties and then must return to work. Restrictions thus strike more than a few in government here as impractical.

Similarly, lobbying is a "different breed of cat" in North Dakota because it's not a full-time job, either, said McDonald, the media attorney and lobbyist.

State law does require lobbyists to register and to report when \$60 or more is "expended on any single occasion on any individual, including the spouse or other family member of a member of the legislative assembly or the governor, in carrying out the lobbyist's work."

Schneider, the former Democratic chairman, said he likes to think most legislators cannot be bought with a dinner and drinks.

"But, by the same token," he asks, "why aren't we requiring full disclosure, and why aren't we saying to our representatives and senators that you just won't take anything from them period. Why not?"

Senate Minority Leader Ryan Taylor, D-Towner, said North Dakota is "fairly wide open" in terms of what lobbyists are allowed to do. He thinks there could be better laws to create more balance between lobbyists and residents who don't have money to spend weeks in Bismarck with legislators.

But Hawken, a Republican, said it would be "virtually impossible" for North Dakota to implement some of the restrictive lobbying laws that other states have. Because legislators don't have staff and work part time, lobbyists are a good source of information, she said.

"Now, is it slanted to how they feel? Of course it is," she said. "But I have never been pressured by a lobbyist ... I've been asked to consider it strongly, but I

have never been made to feel like I would be in trouble if I didn't go along with their bill."

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She doesn't want lobbyists to be so restricted that they can't interact with legislators. But she concedes there are legislators whose first job every day is finding a lobbyist to take them to dinner.

Common ground

There was some agreement among the political parties on state accountability laws that could be improved. Chief among them: campaign finance laws.

Candidates are required to report everyone who contributes in excess of \$200 in the aggregate. They do not report how they spend donations, and there aren't limits on individual donations.

Schneider, the former Democratic chairman, said the state's campaign finance laws are "a joke." Republican Hawken said reporting laws should be overhauled, and officials should have to report how they spend campaign money.

"It's not that hard. Our campaigns are not the half a million dollar campaigns like they are in other states. It's not a burden. So, we could do that, and we should," she said.

Senate Minority Leader Taylor said the asset disclosure forms— known as statements of interests—filled out by candidates also should include more hard data so there's greater awareness of conflicts of interest. The forms ask for basic information but don't require monetary figures.

Gawrylow of the taxpayers association also wants to see those forms improved.

"Nobody really wants to take on that issue because it's always the people that have the conflict of interest [who] are very popular," he said.

Republican Secretary of State Al Jaeger agreed that there could be enhancements, within limits.

"I don't know that we need to go to an extreme because, in some states, it gets to be very detailed where it just really ... would almost inhibit interaction between people," he said. "For our state, I don't think that would be healthy, either."

Doing enough?

Scorecards aside, many North Dakotans are confident in the ethics of their state government because of the nature of the state.

McDonald, the media attorney and lobbyist, said many national surveys — like the *State Integrity Investigation* — are designed for large states.

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"They don't really realize sometimes that these small population states like ours, we're really like a small town in a sense," he said. "So, in state government, everybody knows what everybody is doing ... it would be very difficult to get away with anything in North Dakota."

But amidst that confidence are notes of caution as well. Democrat Mock doesn't think the state can "put our head in the sand" and say nothing is amiss.

"In today's day and age, transparency is needed more than ever to ensure there's good governance," he said. "And we're not doing enough."

More stories about

North Dakota, Index of North Dakota-related articles, Richard F. Larsen, Dustin Gawrylow

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SECRETARY OF STATE

IE PAGE www.nd.gov/sos



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January 26, 2017

TO: Chairman Jim Kasper and members of the House Government and Veterans Affairs Committee

FR: Jim Silrum, Deputy Secretary of State, on behalf of Secretary of State Al Jaeger

RE: HB 1411 – Political Contribution Statements

We understand that the main intent of this bill was to address a question by a few campaign finance disclosure filers. Some filers received multiple contributions from the same contributor, but some of the contributions were a donation of money and others were in-kind gifts such as the printing of yard signs at no cost to the filer. Since contributions from a single contributor are to be filed in the aggregate, some of these filers wondered what designation should be given to an aggregate contribution that includes both money and an in-kind gift.

The vast majority of this bill would require the Secretary of State's office to make the answer to the question clear and we could do so with a minor change to our North Dakota Campaign Finance Online (ND CFO) system by adding two additional designator flags on the entry screen for each contribution. As you can see from the screen shot below, the wording of "In-Kind (All or In Part)" by the check box at the right of the screen should cover all situations, but we could change the wording of this to "In-Kind" and add check boxes for "Money" and "Combination of Money and In-Kind" if this would be of value to some who use the online system.

A screenshot of a web form for entering a contribution. At the top, it asks "Contributor is an" with radio buttons for "Individual" (selected) and "Organization". Below this, there are several input fields: "Name" (with a dropdown arrow), "Address" (with sub-fields for "Suite, Apt, etc.", "City/Township", "State/Province" (set to "North Dakota"), "Country" (set to "United States"), and "Postal Code". To the right, there are fields for "* Transaction Amount" and "* Date of Last Transaction". A checkbox labeled "In-Kind (All or In Part)" is also present. At the bottom, there are three buttons: "Save", "Save & New Transaction", and "Cancel".

Our opposition to the bill, however, is found in Section 6 on page 5. Notice that small, yet very significant, changes are made to the law regarding the disclosure requirements for multicandidate committees. Other than the edits that are made in every other section of the bill, the deletion of

Attachment 4
1411
1-26-17
PHONE (701) 328-2900
FAX (701) 328-2992
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text on lines 16 and 17 along with the deletion and addition of text on line 22 would make it so that multicandidate committees would be required to disclose each reportable contribution from a single contributor rather than the total amount as is the case with every other filer type. We respect the fact that the legislature sets the policies that we must carry out, but we will always speak in opposition to policies that would make for additional differences in what the various filers must disclose than already exist within the law.

This single change in law would require that a fiscal note be added to this bill, but it has not been requested of our office. If the bill would be considered for favorable approval by this committee in its present form, I would ask that we would be given the time to reach out to our software developer to determine what they would need to charge our office to accomplish this change for multicandidate committees.

Finally, this bill does not include N.D.C.C § 16.1-08.1-06, which is the one section that gives definition to the requirements for all contribution and expenditure statements. It may have been forgotten rather than left out intentionally, but amendments would need to be made to that section to avoid the introduction of conflicts within the law.

We encourage the committee to give a do not pass recommendation on this bill since it is only an attempt to solve what isn't broken, it adds a significant difference for the filing requirements for only one particular filer type, and would be an additional cost to the state.