

2023 HOUSE POLITICAL SUBDIVISIONS

HB 1226

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1226
1/19/2023

Relating to working papers of higher education internal auditors and compliance officers.

Chairman Longmuir opened the hearing on HB 1226 at 10:47 AM. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Rios, Rep. Toman, Rep. Davis, Rep. Hager. Absent: Rep. Warrey, Rep. Holle. Rep. Oltlie

Discussion Topics:

- Compliance officer duties
- Compliant investigation timeframe

Rep. Kempenich: Introduced the bill.

Christopher Pieske, Chief Compliance Officer, ND University System. In support.
Testimony #13649

Meeting closed at 10:55 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Room JW327B, State Capitol

HB 1226
1/19/2023

Relating to working papers of higher education internal auditors and compliance officers.

Chairman Longmuir opened the meeting on HB 1226 at 11:17 AM. Members present: Chairman Longmuir, Vice Chairman Fegley, Rep. Hatlestad, Rep. Heilman, Rep. Jonas, Rep. Klemin, Rep. Motschenbacher, Rep. Rios, Rep. Toman, Rep. Davis, Rep. Hager. Absent: Rep. Warrey, Rep. Holle. Rep. Ostlie

Discussion Topics:

- Committee Action

Rep. Klemin moved a DO Pass;
Seconded by Rep. Jonas

Roll Call Vote:

Representatives	Vote
Representative Donald W. Longmuir	Y
Representative Clayton Fegley	Y
Representative Jayme Davis	Y
Representative LaurieBeth Hager	Y
Representative Patrick Hatlestad	Y
Representative Matt Heilman	Y
Representative Dawson Holle	A
Representative Jim Jonas	Y
Representative Lawrence R. Klemin	Y
Representative Mike Motschenbacher	Y
Representative Mitch Ostlie	A
Representative Nico Rios	Y
Representative Nathan Toman	Y
Representative Jonathan Warrey	A

11 Yes 0 No 3 Absent Carrier: Rep. Heilman

The meeting closed at 11:20 AM.

Delores Shimek, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1226: Political Subdivisions Committee (Rep. Longmuir, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1226 was placed on the Eleventh order on the calendar.

2023 SENATE EDUCATION

HB 1226

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1226
3/6/2023

Relating to working papers of higher education internal auditors and compliance officers.

3:15 PM Chair Elkin opened the hearing. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Needed discretion
- Ethics authority
- Confidential documents

Christopher Pieske, NDSU Compliance Officer, testified in support #21914.

3:24 Chair Elkin closed the hearing.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Education Committee
Room JW216, State Capitol

HB 1226
3/8/2023

Relating to working papers of higher education internal auditors and compliance officers.

3:13 PM Chair Elkin opened committee work. Present: Chair Elkin, Vice Chair Beard, Sen Axtman, Sen Conley, Sen Lemm, and Sen Wobbema.

Discussion Topics:

- Bill review
- Oversight issue

Sen Conley moved a DO PASS.

Sen Lemm seconded the motion.

Senators	Vote
Senator Jay Elkin	Y
Senator Todd Beard	Y
Senator Michelle Axtman	Y
Senator Cole Conley	Y
Senator Randy D. Lemm	Y
Senator Michael A. Wobbema	Y

VOTE: YES – 6 NO – 0 Absent – 0 Motion PASSED

Sen Lemm will carry the bill.

3:17 PM Chair Elkin adjourned the meeting.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1226: Education Committee (Sen. Elkin, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1226 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1226



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HB 1226

House Political Subdivisions

January 19, 2023

Christopher S. Pieske, NDUS Chief Compliance Officer

701-328-3303 | christopher.pieske@ndus.edu

Chair Longmuir and Committee Members: My name is Chris Pieske, and I am the Chief Compliance Officer of the North Dakota University System (NDUS). I am here today in support of HB 1226. This bill would provide protections to the working papers of the NDUS compliance officer similar to those provided to the working papers of NDUS internal auditors and the State Auditor's Office.

The NDUS compliance office is responsible for promoting ethics and compliance with state and federal law, regulations, and policies throughout the North Dakota University System. The compliance office currently consists of one chief compliance officer. I also work with partners on each campus. A significant portion of the compliance office's work consists of investigating reports of potential violations of law, regulations, or policies. These reports are received through a Fraud and Compliance Hotline, an online form, and direct reports to the chief compliance officer. My office and my campus partners regularly obtain and evaluate sensitive, exempt, or confidential information while investigating these reports.

The work of the compliance office is made more difficult because there are currently no protections for the working papers of the NDUS compliance officer. This means that the subject of an investigation (or any member of the public) could make an open records request for investigators' notes and working papers for any compliance investigation in progress. This could frustrate the purpose of the compliance office, the effectiveness of our investigations, and the trust necessary to promote ethics and compliance throughout the North Dakota University System.

During the 2021 legislative session, this body adopted N.D.C.C. § 15-10-44.3, which provides protection to the working papers of NDUS internal auditors. My office works closely with the NDUS internal auditors and I receive similarly sensitive information in the course of my work. The protections HB 1226 would provide to working papers of the compliance office are similar to those provided to NDUS internal auditors and the State Auditor’s Office in N.D.C.C. § 54-10-26. Working papers include records kept by compliance officer of the procedures applied, the tests performed, the information obtained, draft compliance reports, and the preliminary conclusions reached in the engagement. Under HB 1226, the compliance officer has the discretion to make non-confidential working papers available for inspection before the final report. Once the report is issued, the working papers will be publicly available, if appropriate. In instances when the compliance officer’s working papers contain sensitive, exempt, or confidential information, all or a portion of the working papers related to an issued report may be declared confidential at the discretion of the compliance officer. The declaration of confidentiality must state the reason for the confidentiality and the date when the working papers will be made public, if any.

This bill ensures that the NDUS compliance office can conduct investigations in a confidential and sensitive manner while still ensuring maximum transparency to the public. HB 1226 provides similar protections to those already granted to higher education internal auditors and the State Auditor’s Office. I respectfully request that the members of the Committee give this bill a “do pass” recommendation.

Thank you for your time and consideration. I stand ready to answer your questions.



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HB 1226

Senate Education

March 6, 2023

Christopher S. Pieske, NDUS Chief Compliance Officer

701-328-3303 | christopher.pieske@ndus.edu

Chair Elkin and Committee Members: My name is Chris Pieske, and I am the Chief Compliance Officer of the North Dakota University System (NDUS). I am here today in support of HB 1226. This bill would provide protections to the working papers of the NDUS compliance officer like those provided to the working papers of NDUS internal auditors and the State Auditor's Office.

The NDUS compliance office is responsible for promoting ethics and compliance with state and federal law, regulations, and policies throughout the North Dakota University System. The compliance office currently consists of one chief compliance officer. I also work with partners on each campus. A significant portion of the compliance office's work consists of investigating reports of potential violations of law, regulations, or policies. These reports are received through a Fraud and Compliance Hotline, an online form, and direct reports to the chief compliance officer. My office and my campus partners regularly obtain and evaluate sensitive, exempt, or confidential information while investigating these reports.

The work of the compliance office is made more difficult because protections for the working papers of the NDUS compliance officer are insufficient. Currently, under N.D.C.C. § 44-04-18.1(6), records of an investigation are exempt until the investigation is complete, but no longer than 75 days. This means that the subject of an investigation (or any member of the public) could make an open records request for investigators' notes and working papers for any compliance investigation in progress for longer than 75 days. Complex and highly sensitive investigations can take much longer than 75 days. This gap in protection could frustrate the purpose of the compliance office, the effectiveness of our investigations, and the trust necessary to promote ethics and compliance throughout the North Dakota University System.

Christopher S. Pieske

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March 6, 2023

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This bill ensures that the NDUS compliance office can conduct investigations in a confidential and sensitive manner while still ensuring transparency to the public. HB 1226 provides similar protections to those already granted to NDUS internal auditors and the State Auditor's Office. I respectfully request that the members of the Committee give this bill a "do pass" recommendation.

Thank you for your time and consideration. I stand ready to answer your questions.