

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1442

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee

Fort Union Room, State Capitol

HB 1442

February 14, 2013

18922

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the establishment of a state ethics commission; and to provide a penalty.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on HB 1442.

Rep. Mock appeared in support and sponsor of this bill. HB 1142 is, which simply put, the creation of North Dakota's first independent ethics commission. I humbly request your consideration and hopefully we can give this a positive recommendation. We have been working on this issue at great length for many years. In 2011 I worked with members of legislative council, staff, and professionals who work on government accountability and legislative effectiveness, and we introduced last legislative session it wasn't to the point that we needed. It had some weaknesses, and rightfully so, was not enacted. However, we received plenty of positive comments and feedback from committee members. We continued our conversation with those who worked most closely with legislators and elected officials, and we had independent researchers that really provide valuable information on how we can best address the issue of ethics and oversight over our government. HB 1442 is a product of all that information and research. I am proud to have this product before us. For those who may not be aware, North Dakota is one of three states in the country that has no formal oversight, committee or commission. The other two states are Vermont and Wyoming. That means that if any citizen, any member of the state of North Dakota has a complaint or a concern over the acts of conducts or an alleged violation of law of an elected official, candidate, lobbyist, or appointed official, they have really no venue to bring that forward. We have ethic codes of conduct, but when a breach of conduct is made, there is no place for that concern to be heard. More importantly, that means there is no place for anyone alleged of breaking the law to have their case heard before being guilty in the court of public opinion. We think that is the impetus of passing ethics committees and commissions in all the other 47 states. It is the reason why Congress has an oversight committee. HB 1442 is exactly that. It is an ethics commission that was created again with the consultation of those who work with it best and have done independent research to find out which states have crafted the most effective oversight committees. He handed out **Attachment 1 (North Dakota Corruption Risk Report Card)** for your consideration. In 2011, the Center for Public Integrity did a state integrity investigation. They had 14 areas of questions that they went and researched. They hired journalists from the states. In

North Dakota it was Terry Finneman, a journalist formerly from Forum Communications. The format was simple. It was comprehensive with thousands of questions, interviewed over professionals and experts in all of the fields in North Dakota including campaign financing, legislative accountability, judicial accountability, procurement, and internal auditing. The state auditor, tax commissioner, and secretary of state were all interviewed and their answers were compiled to produce the score that you have before you. You will note that in the 14 categories that were investigated, North Dakota received a failing grade in 8 of them. The one that we are here to address is the ethics enforcement agencies. Simply put, we received a score of 0 on that category because there is no formal oversight committee and no venue for a complaint to be heard independently and fairly. This has become a growing concern in our state. North Dakota is about to pass about a \$13 billion budget. We are a state that is growing. We have significant needs and issues to address and with this body comes tremendous responsibility. As we make decisions for the future of our state, we need to do it with an open mind and a cautious heart knowing that the decisions that we are going to be making and that the elected and appointed that enact our policies need to be upholding the trust of our citizens. HB 1442 helps us maintain that trust to make sure that the decisions that we make, the policies that we enact are followed thoroughly, efficiently, and fairly and that all citizens have their voice heard. As I mentioned, right now there is no venue for a complaint to be heard in North Dakota on an alleged allegation or violation of an elected or appointed official or candidate. If it is a criminal violation, that criminal violation or complaint can be filed to a state's attorney or to an attorney general. However, that complaint does not have to be investigated and often times if it is filed, the individual is guilty by a court of public opinion. That is not right. We live in a society where you are innocent until proven guilty. Simply an accusation on the front page of a newspaper or a leading story on the evening news should not make you guilty. More importantly, as a body, we are 141 in our assembly and if there is a breach of conduct, if there is an act of indiscretion, that may not merit the political death nail of removal from office but instead a formal reprimand or an apology to be issued may be that is all in order. That is exactly the opportunities and options that HB 1442 would provide to our process. I'll go through the commission structure briefly with you. Section 1 starts off by creating a nine member commission. You will note that of the nine members, six of those members have a political affiliation. The first four, it is one member from each caucus in the legislative assembly, house and senate republicans and democrats are represented equally. There is also a list of five names submitted to the Governor from each political party, and the Governor selects one of those individuals to serve in that place. The final three members are selected. They represent the judicial branch of our government, also selected at the Governor's wish. Those nine members comprise the commission. They serve two year terms and are appointed every biennium. The chairman is selected among the members that are appointed, and the commissioned is convened at the call of the chair. If a complaint is ever filed to the ethics commission, the investigation does not even move forward unless the commission itself, by a majority vote, believes there is enough evidence or information to warrant further investigation. It serves as its own grand jury. As you will note, because you have three members from each political party, if you need five votes, this is not a place for political witch hunts. This is only for warrant based investigations to ensue. It provides the checks and balances that any ethics commission would need to make sure that this is only to preserve the integrity of our electoral system. If the investigation begins, Subsection 9 in the bill does state that at the request of the commission state officers and employees and state's attorney shall cooperate with and

provide assistance to the commission for the purposes of investigation. The commission has the ability to recommend any formal sanctions or reprimands and it can forward any findings to a state's attorney or the attorney general for criminal investigation. However, the commission itself does not have the power to impose criminal judgment. They would serve merely as an investigative arm for an initial hearing and if it is believed that a crime has been broken or that a violation has occurred, they can forward that complaint on to a law enforcement officer for further investigation. If no investigation from that state's attorney or attorney general ensues, that individual must return to the commission in writing explaining why. They need to explain to the commission why their recommendation for further investigation was not adhered to. The commission has the power to levy a civil penalty for anyone who is found guilty up to \$10,000 to recoup the cost of the investigation. It is to insure that those who are found guilty by the commission of violating a code of conduct or a law that the taxpayers are not paying completely out of pocket for that investigation to have occurred. Again, the commission does have the ability to recommend formal sanctions, reprimands, removal of committees, termination from employment, or removal from office if it would so merit. That is up to the commission to decide and it requires a majority vote of the members of the commission in order for that sanction or recommendation to move forward. I am proud of the product we have before you, HB 1442. I think that this is an opportunity for North Dakota to place the wishes of the people before the state. It gives us an opportunity to have a real conversation about we as a body can maintain the trust and the integrity of our institution. It is a comprehensive commission in nature so it applies to state elected and appointed officials, to candidates, to lobbyists, to state employees so it is certainly a venue that we can use if there ever was a complaint so that the investigation can begin confidentially and take away the temptation of investigations only beginning as a result of an allegation on the front page news.

Rep. Vicky Steiner I notice when you have the ethics commission makeup, you have the speaker of the house as a member and the house minority leader. A lot of the bills when they are forming commissions, they will pick the majority leader, the minority leader, the senate majority and the senate minority. I am curious if you have some rationale?

Rep. Mock The reason it was the speaker of the house is--actually all of the committee appointments are actually made by the speaker of the house. The speaker of the house is the ranking member of our legislative assembly. On the minority side, it is the house minority leader. As you are aware, in the senate, the senate president is the lieutenant governor. This was the most senior ranking member of the senate members of that assembly.

Rep. Karen Karls The bill talks about who this commission is able to investigate and you mentioned judge of the district courts, supreme court justices, etc. Are you aware of the judicial conduct review committee that already does that?

Rep. Mock Yes, I am, and we wanted this to be a comprehensive commission that initial complaints can be filed so that there is one place for all concerns to be heard. It would not take over the responsibility of the judicial branch's own form of oversight. If a complaint is filed, it can be forwarded on to the appropriate venue for further consideration and investigation.

Rep. Karen Karls The separation of powers doesn't bother you?

Rep. Mock As you will be aware, there are all three branches of our government included in this commission, and this is a model that has been highly successful in many states across the country. The separation powers for reasons of enforcement and investigation does not concern me especially since they can only make recommendations.

Rep. Karen Rohr One question is based on the corruption risk report card. What was the number of the same size of this and then who again participated in the survey?

Rep. Mock What I handed out was the score from the state integrity investigation. I don't have the numbers of the questions. I know the survey method was they have a list of, I believe, thousands of questions over those 14 areas that they had to have no less than two sources to confirm. They were yes or no questions and many of them it was yes, partially yes or no. For example, if we had any form of ethics committee, let's say that there was even a place for a website to someone to anonymously report a tip, we may have gotten a partially yes under one or two of those questions under the ethics enforcement agencies. The way that questionnaire was conducted no less than two members from the state, and they were generally elected or appointed officials who were intimately familiar with that section of law, were asked these questions. It was yes or no answers, so they offered as a confirmation. I believe the questionnaire was never finalized until all answers were confirmed and on par so that both sources can confirm that is exactly where North Dakota or in any other state where they ranked in terms of that question. The individual who conducted the survey in North Dakota was Terry Finneman of Forum Communications.

Rep. Karen Rohr Can we get a copy of that report?

Rep. Mock This is merely a screen shot of that report card. This is all available. I would be happy to send every member of this committee the link to that scorecard. Absolutely.

Rep. Karen Rohr Ethical allegations are a serious thing. What happens to the records from these committee meetings?

Rep. Mock You will note as it states in Subsection 4, any of the records gathered or created through the course of an investigation are not subject to the open records clause of Century Code 44-04-18 and Section 6 of Article XI of our constitution until the conclusion of the investigation. The records of an investigation adhere to the same policies any criminal investigation executed by a law enforcement agency's would. The records are closed until the investigation is complete.

Rep. Karen Rohr Then what happens? Are they safe for 7, 5, 10 years? Are they destroyed? What happens?

Rep. Mock At the conclusion of the investigation, the findings are reported at their final meeting and that is when it is opened. Again, just as it is with any other investigation through the court of law if they are insensitive or otherwise protected information that ensues from the investigation that would remain closed but this only applies to otherwise

open records. At the conclusion of the investigation those records would be open, but they are closed until that time.

Rep. Steven Zaiser Would whistleblower allegations and consequences thereof be involved in this ethics issue?

Rep. Mock There is no provision in this that identifies or weakens whistleblower protections in our state. There are no stipulations to how the complaint is presented. This would not undermine any existing whistleblower protections that we would have in our state.

Rep. Ben Koppelman passed out **Attachment 2** (email) to the committee first. I am interested to know if this email would be a potential ethics violation given the fact that it was presumed how people would vote a day ahead of time and was clearly looking to fundraise for a political party on the basis of morality. He read the email for the record. The email was sent from people@dempl.com with a subject Milk for Poor Kids Tax Breaks for Big Oil. If ever there was a time for outrage in the state of North Dakota, it's now...**if ever there were a time to stand up and get involved, it is now.** We have grown accustomed to having this Republican majority roll out the most outlandish and ridiculous legislation that anyone could imagine, but this crosses a line much bigger than that of politics--**they have crossed a line of morality, and we won't stand quietly by!** Yesterday, House Republicans voted to NOT provide milk to needy kids in elementary schools across our state. **Yes, you read that correctly...on the heels of passionate testimony from Republicans on why multi-million dollar oil companies need tax breaks, totaling hundreds of millions of dollars, they have literally turned their backs on the most vulnerable among us...North Dakota children.** It is our job to protect those who are most at risk, and it is our job to make sure that our representatives in office put North Dakota families and this country first--not some of the time, but ALL of the time. North Dakota Democrats stand up for children and families. **We hope that you do too. Join us in working to replace Republicans who vote against our children with Democrats who will fight for North Dakota families!** In Service, Corey Mock, Assistant Democratic-NPL House Leader. You will note that on the top of the email, the date is Tuesday, February 5. I pulled out of the house record the vote on this particular bill being referenced held on February 6 and it was 24 yeas, 69 nays and the bill failed. Rep. Mock, clearly this was assuming what Republicans would do and using it for political gain, and I should also mention on this email there was a fundraising link not to raise money for kids' milk but to raise money for your party. Would this be grounds to give to this ethics commission that you propose?

Rep. Mock We can debate the email. We are talking about an ethics commission. I would say the lack of a commission--we have no place for those questions to truly be answered so if you want that answer--if this was considered or if anything of this nature or perhaps an individual who was arrested for a crime and had violated our code of conduct that somebody was accepting illegal campaign contributions, was spending campaign dollars on personal expenses, that someone had violated any sort of conduct, an ethics commission is the only place for those complaints to be heard. With that said you are referencing an email that was sent following a House Education Committee's recommendation whereby a vote of 10-3 this bill was given a do not pass recommendation on bi party line. If the issue was to debate the specifics of any email sent using private resources, then we can have that conversation, but an ethics commission would be a place

for any complaints if they so merit to be heard and thoroughly investigated so that formal reprimand or potential criminal or civil prosecution can ensue.

Rep. Ben Koppelman So you are saying the intent here was to only demonize the republicans on the education committee, one of whom happens to be myself, and only hold high to democrats on the committee, one of which is yourself, and did we ever hear any bills relating to tax breaks for big oil on our education committee to where you could fairly demonize or reward the education committee members in separate from the entire caucuses?

Rep. Mock The House Education committee does not hear bills related to tax cuts. However, that same day there were hearings, and the sponsors are on the bill, proposing reductions in our income tax. This is not the venue to debate this or any other specific issue but merely to discuss the merits behind HB 1442, the creation of an ethics commission. Again, if there are concerns that there is ever a violation be it from this, be it other allegations that have occurred in the past of members of our elected assembly, the venue would be an ethics commission.

Marie Strinden What parts of this bill were taken from ethics commissions in other states that we know to work? I know that we can't have a fiscal note because we don't know how many times this ethics commission would meet. Yesterday on the house floor we passed a bill that would add legislators to the state investment board and that is about \$10,000 a year per legislator because of their per diem and everything. Could you speak a little to the fiscal note?

Rep. Mock When you talk about the fiscal note, this was something that was not able to be put together and assembled. We have interim committees that meet on an ongoing basis and the legislative assembly appropriates dollars to meet that expectation. We also do put legislators on various committees and commissions, so the fiscal note is something that could never be truly calculated unless we knew how many times that committee was expected to meet. To be frank with you, I don't think that an ethics commission would have many opportunities or needs to actually be convened. I feel pretty confident that the complaints would be few and far between in working with many of my esteemed colleagues. It is good to know that if ever an act of indiscretion did occur, that there was an appropriate venue for that complaint to have been heard.

Rep. Gail Mooney If Rep. Koppelman did have a concern with any specific, email, or anything that he felt or a citizen felt might be of concern, that would be the place to go to, have it vetted, and from that point on it would be determined whether or not there was any validation to the claim or not. Is that correct?

Rep. Mock That is absolutely correct. If there is a complaint of an ethical or criminal violation by anybody covered under HB 1442, the complaint is presented to the commission, the commission serves as their grand jury, they decide the merits of it, they vote, it takes a majority vote to move the investigation forward to even begin the investigation, and then they would use their resources available to them to hear all the facts and information and they would render a conclusion at the end of the investigation with a hearing. Right now the only opportunity that many of our citizens have is either by bringing

a complaint for criminal allegations to a state's attorney or attorney general or to file costly lawsuits. In North Dakota we have had both. They are rare and action is rarely taken. In less than a year ago, we had members of our own assembly that could have actually defended themselves in a court of their peers instead of having to be drug through the muck of civil litigation. I will hand out **Attachment 3** which was dated May 30, 2012 involving members of our public service commission. They are currently fighting a lawsuit, and this would have given a potential alleviation from them having to fight a federal lawsuit in the United States.

Rep. Steven Zaiser The handout we received from Rep. Koppelman, wouldn't the primary issue here be to ascertain whether or not this is simply political and it is not really an ethical issue or not? Would the ethics commission even deal with this?

Rep. Mock That would be up to the ethics commission themselves to actually decide. If there was a law or a code of conduct that was violated and there was sufficient evidence and this is any case, they could vote to move the complaint forward and for further investigation and then make a recommendation to either the appropriate official, one of the agency heads if it is a state employee or to the body at large.

Rep. Karen Karls You spoke at the beginning of your testimony about independent researchers. Are you referring to the center for public integrity when you speak of independent researchers?

Rep. Mock No, that one scorecard was merely a highlight of the areas where North Dakota has insufficient or nonexistent laws, commissions, committees, etc. The independent researchers were law students, the national conference of state legislators. They have an ethics panel. Peggy Kerns is their director of ethics and oversight and has compiled significant research related to government oversight. The NCSL organization does tremendous research on legislative effectiveness and accountability. They were utilized at great lengths to help draft this legislation taking best components and best practices from many other states.

Rep. Karen Karls Did their group give us a score card or is that not their function?

Rep. Mock As you are likely well aware, NCSL does not go through and look into laws and provide scorecards, but they will provide information about what does and does not exist. Just recently they conducted research on laws across the country where there was a duty to report of mental health or health professionals if a person had made a significant threat of causing harm to themselves or to others. North Dakota is one of four states in the country that has no duty to report either a requirement or a venue. That was research that was conducted by NCSL and provided on their website earlier this year. They do perform research of that nature, but they don't provide a physical scorecard.

Rep. Karen Karls You handed us a scorecard from center for public integrity. They aren't exactly an unbiased neutral group are they? They get funding from people like George Soros. They have people on their board like Arianna Huffington. Now why should we accept a score of an F from a group like this and use it as a reason to have an ethics committee?

Rep. Mock With all due respect I would say that we should just as easily throw out the score of A for internal auditing that same group gave us. I should also point out that this was not information that was conducted by them but with information used by North Dakota state elected and appointed officials answering questions and all states were compared to the same study. If we wanted to debate the merits of this scorecard, we certainly can but know that ND did score well in procurement and internal auditing and we were given high accolades in some areas. Note, there were eight areas where we scored failing grades. Whoever provides evidence that could be verified and this is. NCSL has confirmed that North Dakota is one of three states without any formal oversight committee or commission. A nonpartisan group of which we are all members has confirmed that North Dakota has no such entity for investigations or oversight. That is more than enough to say maybe this is something that we should look into.

Rep. Marie Strinden I do understand Rep. Koppelman's frustration that there is no forum to air issues like this except the court of public opinion and because this commission is essentially your idea, if this bill were to come into existence, I am guessing that the heat might be a little more on you than it would be on any of us. If the commission were to investigate this or anything else, how would you feel if this came back to bite you later?

Rep. Mock My answer is going to be very simple. Unless there is an ethics commission, there is no place for these complaints to be aired and vetted for information no matter what it is whether it is our members of our public service commission taking illegal campaign contributions as was alleged by two interest groups in North Dakota and lawsuits are still pending or it is an act of indiscretion by any member of the assembly, any candidate, any lobbyist. The only place for that information to thoroughly be heard and vetted is by an ethics commission.

Chairman Jim Kasper On your handout on the environmental groups filing a lawsuit against the PSC commission and others, are you suggesting that if the ethics commission had been in effect, this group would have not filed this lawsuit?

Rep. Mock My point in that is that there have been lawsuits that have been filed that may have been avoided if an ethics commission could have had the investigation initially. Had there been any thought that a crime or a violation had occurred, that commission could have heard the information, had done the investigation without costing taxpayers or individuals an extreme amount of money and going through the costly battle of a civil lawsuit. This would have been a tremendous aid in making sure that both parties were thoroughly represented and that all the facts were heard before any news story was printed.

Chairman Jim Kasper This group that filed a lawsuit, number one, would not have had to go to the ethics committee. They are certainly free to file a lawsuit and ignore the ethics committee. It is their choice. I would assume you would agree with that?

Rep. Mock You are right. A person would not have to go through. If the desire for them to hire an attorney and to file a costly lawsuit and to drag this out over many years, and this is almost a year ago and it is still pending, if their desire was to go that route, they certainly could have sidestepped an ethics commission.

Chairman Jim Kasper The point is they would have not been under any compulsion to use an ethics committee. They could certainly have done just what they have done.

Rep. Mock There is no obligation to report a complaint to the commission, but again, the alternative is a costly lawsuit or to have an investigation perhaps never ensued at the complaint of a state's attorney or the attorney general.

Chairman Jim Kasper Do you think knowing the political scene in ND as you do, the lobbyist friends we have, the legislators, the public elected officials, do you think we have an ethics problem with our elected officials in North Dakota?

Rep. Mock I am proud to serve with my colleagues here and know that we do have a high code of conduct. However, indiscretion has likely occurred in the past. We would never know unless there is a venue for a complaint to be heard if anybody does violate a crime. We have unfortunately had members of our assembly in the last 15-20 years violate the law, but there is no reprimand. In fact the only time that they are ever punished, if you will, for their actions is by the voters. Frankly put, some offenses just don't warrant removal from office. We have had many good legislators had mistakes in their past and the only action that has ever been taken for punishment or reprimand is at the hand of the voters. Sometimes I think that if we had a place for the facts to be heard and for a reprimand to have been issued, we would have some of those colleagues with us serving their constituents proudly.

Chairman Jim Kasper You are certainly not suggesting you have had numerous occasions like that? I think what you said is that over the past 15 or 20 years, we have had a few occasions. You are not suggesting this is ramped in North Dakota? It has happened. Just like a body of 140 some people, we are citizens most of the time. We make mistakes. We get in the car at the wrong time, do something the wrong way. We have a speeding ticket or other things occur which could happen and does happen to any part of the population.

Rep. Mock You are absolutely right. I have no reason to suggest that any ethical violations have occurred on a regular basis. However, without any formal oversight, without any way for complaints to be heard and investigated and facts to be presented from both sides, we would never know.

Chairman Jim Kasper Do you think if the ethics committee was in place, we would have a lot of ethics complaints filed?

Rep. Mock I honestly don't know. I don't believe that we would, but sometimes a person can rightfully argue that one is enough to justify having that venue.

Chairman Jim Kasper You handed out the score card. Are you familiar or are you aware of any other organization that has ranked North Dakota on the ethics? You indicated that NCSL has given you information about what ethics committees are, but are you aware of any other ranking system for North Dakota?

Rep. Mock I am aware of no other organization that ranks on a scorecard of this nature. I am aware of researchers at the university level across the country that have conducted thorough research regarding ethics and oversight laws, political science departments that have conducted research and ND is quite regularly mentioned as one of the states that has no formal oversight.

Chairman Jim Kasper Are there a lot of those types of studies that you are aware of?

Rep. Mock We always see the email from graduate students that are conducting research. We get that on a fairly regular basis. They are dissertations and law review journal articles that do conduct this. I am not aware of a specific quantity, but I have had several brought to my attention just in the last couple years as I have been working on this issue.

Chairman Jim Kasper That negatively impact or cast a negative light on ND?

Rep. Mock When someone offers authors a paper and says that the lack of accountability in the state leaves more questions than answers and creates more allegations of possible misconduct, I think that is a negative image for ND. I think this is one way that we can certainly rectify that without changing our system radically.

Chairman Jim Kasper Lack of questions, lack of knowing, lack of accountability doesn't mean guilt, does it?

Rep. Mock You are absolutely right. Having a lack of oversight certainly does not mean that crimes have existed. You can make the same case that if there were no police officers on the road and no judicial system for complaints to be brought forward, then we would never have any DUIs, that no one would have ever sped. Without the enforcement and the oversight, there is never a violation. This is just another example of how the formal oversight commission can put minds at ease across our state that we are holding ourselves accountable and that we are operating solely with the intent of preserving the trust and the integrity of our state.

Chairman Jim Kasper I have done a little research into the center for public integrity. Now I am going to get into some of their research that based on your grade, the one sheet that you handed out, I have a little bit more. First off, did you look at the rankings that they ranked the states in the United States on their ethics rank from 1-50?

Rep. Mock I have glanced at it.

Chairman Jim Kasper Let me share with you who they ranked first, New Jersey. New Jersey has in the last recent years 45 ethics violations and people were in prison and found guilty. I can't think of a single one in ND, but we were ranked by them, 43rd. Illinois was ranked 11th. If I am not incorrect, I think 3 of the last 4 governors of Illinois or 2 out of the last 4 are in prison for corruption, and there is time and time again where we read about the Illinois corruption. There could be countless other officials in prison, but they ranked 11th. ND ranked 43rd. There are other states here and it was very interesting to see how did we get there and so I started to dig why were we so low? What we want to do is just walk through some of the things I learned. This is on their website by the way. What does a

state's corruption risk report card measure? I would like to read what they say. The report card measures the strength of state laws and practices intended to insure open transparent government and prevent corruption. We see this as measuring the risk of corruption in each state. The report card does not try to measure the level of actual corruption. So the risk compared to the level. Actual corruption is the result of the actions and integrity of individual public officials and the governess culture in a state. I think our record in North Dakota stands up pretty good, so they are measuring what have we done as far as measuring but not what are the results. I believe the methodology that Terry Finneman used as far as interviewing state officials or people in ND, and I could be corrected, but I believe for each question, she found two people and she asked one question of each person, one on the pro side, one on the con side of an issue. I don't know if there were thousands and thousands of interviews done in ND. I would like to verify that with her to see how many interviews she actually did, but in the report there was one statement pro, one statement con, and other than that, that is all I could find.

Rep. Mock My understanding is that all the questions were answered of both individuals to confirm the response of the other individual. You are right that thousands of individuals were not interviewed. However, I do believe that there were thousands of questions that comprised the 14 categories, and they were taken from, and I am not sure how many specifically, but from dozens of sources across ND of people who are experts in that field, either elected appointed officials or experts in that industry.

Chairman Jim Kasper The other thing I found in research is that most, when we get into the ethics failure, most of the reason was because ND is a part time legislature, not a full time legislature. They are getting into questions which I will go back to and read to you in a bit. The fact of the matter is we are citizen legislators. We are on "active" duty for 80 days and then we go back and we have businesses like you do and I think like all the committee members do and most likely, most of the people in the audience. We are legislators, but we are full time citizens as well. The questions geared toward full time legislature where you could have much more potential conflicts of interest as opposed to part time where we are here and then we go home. The other thing they were digging on is one of the reasons we had a zero grade in the ethics area deals with asset disclosure. We have a form which I have back here some place that when we file as a candidate, we fill out our holdings, our organizations that we belong to, and give some type of an area of asset disclosure. We don't get into huge areas of asset disclosure. Do you think that we should be disclosing more of our assets like the people in congress do?

Rep. Mock Again, HB 1442 does nothing to address that and that is not the reason we are even here today. However, I would point out that the conflicts of interest statements or the statement of interest documents that are filed by candidates for office and appointed officials are submitted only at the beginning of their candidacy or at the beginning of their appointed term, and they are never made available online. Now whether or not making them available online or submitted or updated annually would increase that score, I cannot answer that question, but that is the only disclosure that candidates for office and appointed officials including heads of departments in the executive branch are required to file with the secretary of state.

Chairman Jim Kasper Those are open records, are they not?

Rep. Mock Absolutely, they are open records. They are made available upon request, but there is no investigation, no auditing, nothing to verify that they are complete or thorough. The secretary of state merely accepts the statements of interest and files them with the appropriate individual.

Chairman Jim Kasper I want to read some questions now and read the grade and ask your response. This is in how the report was compiled where ND got an F. In law there are restrictions for state legislators entering the private sector after leaving the government. We got a zero for that. What is your response to that?

Rep. Mock HB 1442 does not impose any restrictions on the actions of a member of the legislature after their term of service.

Chairman Jim Kasper In law there are requirements for the independent auditing of the asset disclosure forms of members of the state legislature. Independent auditing, should we be audited?

Rep. Mock Again, I sound like a broken record. HB 1442 does not address any of those concerns as mentioned in the study.

Chairman Jim Kasper It sounds like the 5th amendment here.

Rep. Mock Again, I have to point out that I have no connection to this report card so the questions related to that report card, I bring that up as merely as a reference just as I did with the news article and commenting about NCSL. What I can speak to is that ND is one of three states that does not have an ethics commission. That has been confirmed by nonpartisan groups that we are a part of and that this is one study that was conducted that gave ND a failing grade. I believe it related to the ethics enforcement agencies. There were four categories related to that one specific area and we received a 0%. Again, it was because of the lack of oversight, not because of any of our other laws.

Chairman Jim Kasper You have raised the issue of this report in your handout. You have used this, not only today but in prior times, that the reason we need an ethics committee is because of this report. I think it is a little bit disingenuous to say that you are looking at NCSL which says we don't have an ethics committee in ND and then handing out the one that scores us very low and has been used for a number of years to say we need an ethics committee. That is a little bit disingenuous.

Rep. Mock To say that it is disingenuous is not accurate. I am simply stating that what we are proposing here is an ethics commission. Questions related to non ethics commission areas are an unfair analysis or conversation, maybe not unfair. They are not germane to the bill that we have before us. I am happy to discuss the report that the state integrity investigation produced. However, I don't think that is going to move us forward on the merits of HB 1442 and whether or not ND has a need for an ethics commission.

Chairman Jim Kasper The conclusion that I gleaned from my research is that most of the reasons we got the failing grades was because we are part time legislators, not full time, that our situation is somewhat unique in the United States because of our part time. We

have open access to the public by lobbyists and by all citizens, and because of some of these potential problems, we are getting zeroes. Therefore, that influenced the grading of our state. From your own testimony you have indicated that you cannot cite very many examples the last 15 or 20 years of problems. The point is if we are trying to say we need an ethics commission because we have a problem, we need an ethics commission because we are only one of three states that do not, show me where the reason is that we need it.

Rep. Mock The reason I am not citing any specific examples is because I don't want to make any allegations of any individual whether it is past, current, or deeply in the past for that matter. That is not the purpose of this. We have had members of our assembly violate criminal laws and there has been no formal reprimand by our body. There is no place for a formal reprimand to occur. In the late 1990s a lobbyist had been lobbying our assembly illegally and the permissions to lobby were revoked from the Secretary of State and they were given a fine. They had no way of defending themselves. They were a citizen lobbyist who had never lobbied our state before, but because a complaint was filed to the Secretary of State by a member of our assembly, they were prohibited from lobbying in ND for I believe five years. Other allegations of illegal lobbying have gone unheard in the past. There was a case in 2009 when there were members, professional lobbyists who failed to register, and they were simply asked to file with the Secretary of State. No investigation had ensued and no civil penalties were required to be paid by the individual. Again, the purpose of the commission is for those complaints to be heard confidentially and for the facts to be presented by both parties is precisely the reason why I will not stand before this commission and state any individuals that may or may not have committed a breach of conduct or a crime. That is not our place. The point is to insure the trust of our public and to provide that venue. I would like to reference that SD, another part time legislature, is a state that scored better than us on that study because they do have an ethics commission. MN does as well as does MT. The fact that ND is a part time legislature I think, while a valid point, we are not the only part time legislature. In fact, most states would argue that they are part time legislatures and yet, they have some form of oversight which has elevated their score in the study that you are referencing.

Chairman Jim Kasper You are one for two. MN scores 25th, SD scores 49th.

Rep. Mock MT, I believe, also scores higher as does Nebraska and other part time legislatures.

Rep. Ben Koppelman We as the legislative body consider creating new regulations and oversight on an industry or a group of people, do we typically do so simply on the possibility of a problem or do we usually expect those who are lobbying for such regulations to show that big problems exist and that we need more regulations to take care of that?

Rep. Mock Again, this is not a regulation. This is an opportunity. This is a venue for complaints to be heard, for facts to be presented, and both sides to have their day in court, if you will. This is not any new regulations or requirements of any elected official, candidate for office, lobbyist, public employee. This is merely the existence of oversight. While I appreciate the point on regulations, this does no such thing.

Rep. Ben Koppelman Maybe I didn't include oversight in that. Phrase that same question to oversight. If we are considering a greater oversight of something on a particular industry or group of people, do we not typically expect that somebody who is asking for that extra oversight provides some sort of evidence or at least preponderance of the evidence that there is big problems that exist and that there needs to be more oversight?

Rep. Mock I did provide you with one recent case where members of our elected government are brought up on charges, or there is a lawsuit pending, based on alleged illegal campaign contributions. There have been other violations of law that have been reported in the paper, some not related to their office, others potentially, and no investigation or finding of the facts is ensued because of the lack of a commission. A member of our assembly failed to pay taxes for many years. Would that have warranted any formal reprimand or dismissal from a committee chairmanship? Possibly, but that was something that was never brought forward. An individual arrested on criminal charges--in fact, we have had two that have been arrested on criminal charges in the last three or four years. Perhaps that was a grounds for formal reprimand. Again, not dismissal, but formal reprimand. There are cases that have occurred in the last few years, but the fact that there is no commission, there is no place for these complaints to be heard and the facts to be found, is precisely the reason this is being introduced. They were merely guilty by the court of public opinion and that is not the best way to execute due process. I certainly believe that this is one venue that we can be proud of that we are not only holding each other accountable but we are executing the rights of democracy to make sure the facts are heard and individuals are always innocent until proven guilty.

Chairman Jim Kasper The cases you cite I am very familiar with. I am not going to mention any names, but you said guilty in the court of public opinion. That is incorrect. In the case of the criminal charge, there was admission of guilt, and then there was an exoneration and a recall of the charges and that was in the public. In the case of the tax situation, there was a press conference admitting what occurred and explaining the situation. That was worked out. From what I understand, those taxes were paid relatively quickly afterwards. They did have their day in public. They were taken care of by the process that we have out there.

Rep. Mock Again, that is precisely the reason why I originally chose not to even mention any recent examples is because upstanding members of this assembly that had acts of weakness or indiscretion or situations beyond their control that caught them to have to handle additional challenges in life, that is precisely the reason I didn't want to bring this up. It is the public opinion there were conversations and stories alleging their guilt before they even had a chance to present the facts, and I think that is a violation of due process on their individual accounts. I certainly hope for better of our colleagues.

Chairman Jim Kasper As an attorney, you know full well that there would not have been any change whether an ethics committee found anything or not. The matter is it was settled the way it had to be settled outside of this legislative body, outside of an ethics committee by a court or by a rectification, so the ethics committee wouldn't had anything to change about it.

Rep. Mock I am not an attorney. If a report would have been filed with the media, you are right. However, the commission is the place where that information could be presented and in the case of some of our colleagues that are not with us and have been removed from office by the act of the voters, the ethics commission and a formal reprimand may have been all the repercussions that were needed and perhaps that individual would have been reelected because they were duly punished if that were the case.

Chairman Jim Kasper And perhaps not.

Rep. Mock And perhaps not. At least this would have provided the venue for them to explain themselves fairly and adequately and made sure that all the facts were ...

Chairman Jim Kasper But being it is a confidential hearing, it would not have been public.

Rep. Mock However, the investigation results would have been at the conclusion.

Chairman Jim Kasper They may not have wanted that.

Rep. Gruchalla appeared in support of this bill. Having spent a career in law enforcement, when I got into this body in 2006, I was surprised that the lack of actual oversight there is in this body. I felt that we policed ourselves. In fact, when some of the recent incidents that were mentioned earlier--one of our members is on the front page of the Bismarck Tribune in orange coveralls charged with a criminal offense--I was appalled and some of my colleagues were appalled that there was no censure. There was nothing done. Of course, then I started looking into the part that we do not have a way to do that. There is no ethics commission. For those reasons I do think there are--I think we have mentioned some of these issues--the public service commissioner was mentioned already so I am not bringing up anything new, but I mentioned it to one of our constituents or colleagues on the other side of the river in state government in MN and they said if that incident would have happened in MN, they would have been construed as bribery and they would have been charged criminally. I think there are some good reasons. If you need examples of why we need an ethics commission, these are some of the more egregious ones, but I do think there is a definite need for some oversight or some way to look into these violations. Are we going to have a lot of them? I don't think so. I am sure we won't, but remember it does cover all elected officials and appointed officials, so I do think there is a good reason to put something like this in place.

David Schwalbe, Bismarck resident, and grew up in Dunn County, appeared in support. I am one of the lucky ones in the state that used to own minerals in Dunn County. I want to make a few points here as to why we need an ethics commission. Number one, if we had an ethics commission, I wouldn't be here. I wouldn't be involved in the mess we are involved in. Here are a few points as to why we need a commission. I am sure you have all heard about the Dunn County scandal, the Corral Creek unitization scandal. This is so complicated and so deep that you could stand here for hours and talk about it. Point one, we lost all our rights along with the state to lease our minerals. All the owners of the 12 existing wells lost our royalty payments. We are now just getting a fraction of what we should be getting. We did not get a hearing at the industrial commission. The meeting was scheduled for December 20, 2011. On December 16, we got notices stating that the

hearing was postponed for 45 days due to the complications of the situation. Between the 7th when the letter was written and the 20th when the industrial commission met, hundreds of thousands of dollars poured into the governor's campaign office. The industrial commission met on December 20 without notifying any of us that they had changed their minds. On the 16th when we got our notices, it was so complicated they had to postpone it for 45 days. All this money came in. All of a sudden it wasn't complicated anymore. Our attorneys were dumbfounded. They couldn't believe any state agency would operate like this, send out notices, canceling it, and then having it anyway without notifying us that it was back on. We did not get our day. To take to this court, the attorneys we talked to wanted a \$250,000 fee up front retainer. We were talking a million dollars to prosecute this. They told us we were wasting our money. Not only were we fighting the third largest corporation in the world with hundreds of attorneys, but we were fighting a state government who our attorney quite frankly told us was corrupt. We had no place to turn. We are not rich out in Dunn County in spite of the fact that everybody thinks you have oil wells, you are all rich, you can go hire yourself an attorney. We had no ethics commission to go to. We had no place to go. We couldn't go to the attorney general because he sits on the industrial commission. He was well aware of the letter going out, canceling the meeting or postponing it, and he sat right there when they reinstated the meeting. An ethics commission would have been a perfect venue for us to go to. This whole Dunn County scandal would not be going on. We would not be involved in any of this. None of us want to be involved in any of this, but we have no other choice. The Dunn County petition was a last resort. The people in the Coral Creek field have lost millions of dollars along with the state. The state has also lost millions of dollars with the potential to lose millions of dollars more. Now to compound the situation and make it even worse, they are talking about coming in with two new oil formations, the Tyler and the Three Forks which they are now starting to seismograph for. We cannot lease those either. Everybody else in the state can lease their minerals except for us. Those minerals were given to the oil companies free of charge, tied up for forever. They can tie them up for the next 100 years if they want to. Not only that, they have violated the drilling agreement. They are not drilling the number of wells they said they were going to drill. They have put this thing on hold. It is basically an underground storage unit for them. I am in my 60s. Most of the people in the Coral Creek field are in their 60s or 70s. We are never going to get our money back in spite of what the companies, the professionals spin, people are saying. We are never going to live long enough to get our money back. I would like to thank you for the opportunity to say why we need an ethics commission. This is the type of thing we need.

Opposition:

Bill Shalhoob, Greater North Dakota Chamber, appeared in opposition. I would like to make a few points. I don't know, going down here the list, how lobbyist and state employee got in here. I am not sure whether we got promoted or demoted to be on the list with all the elected officials. However, I know that within the state code because we talked about this in the last couple sessions with the whistleblower laws, that lots of protections and ways for state employees to voice concerns about that and protections against there being retributions are there without having an ethics commission. Lobbyists, again I am not so sure. Like I said we are the only two groups in there without not being elected. We said this was an independent ethics commission. Yet, if you look at the makeup we have the first six members being very political appointed by parties, three of each, and the last three

members being appointed or elected of the judicial branch. Again, they are elected or appointed usually by one party or another who happens to be sitting in the governor's chair. While they say they are nonpolitical, if they truly are nonpolitical, I would question why we have such a controversy over an appointment of the Supreme Court as to their standing whether they are going to be a liberal or a conservative. It goes both ways depending on who is the president at that time. Despite being called an independent ethics commission, it is going to be political in the end. I don't know whether the people of ND want this. They want to get over the politics of some of this. It is going to happen by having an independent ethics commission, because it is going to be very political just based on the makeup of it. I think in terms of elected official, there is an ethics commission and that is the election. Every four years you and everybody else in the state, or seven years depending on the term, stands for election and there the citizens are going to give you their ultimate vote as to whether you are an ethical person or not. When we talk about the confidentiality and the complaints and the few and far between, again I will go to the political ramifications of that and I wonder if it is not only the complaint and the confidentiality of that, it is the person making the complaint saying they are going to make a complaint before they go. I am going to take this action to the ethics committee. Regardless of that, the damage has been done. In terms of political campaign, in terms of somebody that you don't like, in terms of somebody running against, in terms of somebody you are behind in a race and you are looking for to win that race, it is that statement that I am going to take this to the ethics commission and then it becomes confidential. That is the political part of this and that is what is going to exist if this commission gets formed. I would submit that despite it trying to be independent, it is going to be very political no matter what we try to do with it. I think we do have it in terms of the way we behave and the way we conduct ourselves. I would reinforce the point that the three states, IL, NJ, and I also would add LA in there, anecdotally they may have all the commissions they want. Yet anecdotally when we hear about the problems that they may have in those states, I wonder if any one of us would rather live in that political environment or this one. We think this is a solution in search of a problem and would hope the committee would reject this bill.

Chairman Jim Kasper Looking at the ranking LA is 15th, ND is 43rd. Just for your information.

Rep. Ben Koppelman Being that we spend 1 2/3 of the years out of two years of that ratio of a four year term as well, we are spending the majority of time at home. Correct?

Bill Shalhoob Yes.

Rep. Ben Koppelman If we are spending that time at home, do you think that gives our voters a better chance to learn if we are ethical people than if we were in a full time legislature?

Bill Shalhoob I guess it is my belief that you are ethical or you are not whether you are here for four months or here full time. You are either going to obey the law and you are going to fulfill your oath of office or you are not. If you are not, the voters if they want to are going to reject it. If they don't want to reject you--let us look at the ex mayor of Washington who went to prison. He got out of prison and was reelected. The voters wanted to keep him as the mayor. That is their right and the voters are going to decide whatever you did, it

was okay or it wasn't. That happens every four years regardless. I just don't think we need an ethics commission to tell our voters what they know.

Rep. Steven Zaiser At the federal level as you are aware, the senate and the house have ethics committees or I am not sure what they call them. The makeup is strictly elected officials and despite the makeup of the senate or the house whatever it might be it is my understanding that it is equally represented by democrats and republicans. I don't follow it that closely but in terms of always being a biased, they have ousted or reprimanded or punished members of both parties regardless of who it was based on the merits of the situation. You said we would have these fixed results. Here is a case where there would be 50-50 representation and it seems as though there is justice.

Bill Shalhoob I hope I indicated that the justice question was not there. What I said was I think I indicated that it was going to be political. Whether the result is fair or not, I didn't bring that up, but I do think that regardless and even on the federal level I believe that some charges and some of those things are probably politically motivated. The decision may be absolutely just because it is even and all that kind of thing. The only point I am making in the makeup of this is if you think you are avoiding politics by having six, three democrats and three republicans on a committee, I think you are kidding yourself.

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1442
February 14, 2013
19347

☐ Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to the establishment of a state ethics commission; and to provide a penalty.

Minutes:

You may make reference to "attached testimony."

Attachment 1 (Dave Schwalbe's testimony from 2-14-13 hearing) was handed out.

Chairman Jim Kasper opened the session on HB 1442. We had a lot of testimony and a lot of give and take. This is an old friend that has been around more than once.

Rep. Vicky Steiner I have some concerns about it. I am not exactly sure if I agree with how it was organized. I make a motion for a Do not pass.

Rep. Karen Karls seconded.

A roll call vote was taken and resulted in **DO NOT PASS, 10-3, 1 ABSENT**. **Chairman Jim Kasper** is the carrier.

FISCAL NOTE
Requested by Legislative Council
01/23/2013

Bill/Resolution No.: HB 1442

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill creates a State Ethics Commission.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill creates a 9 member State Ethics Commission and requires expenses of the commission to be paid by the legislative branch. The estimated fiscal impact cannot be determined. The level of staff services that may be required by the commission cannot be determined and the number of commission meetings is unknown since meetings are dependent on the number and timing of complaints received. The bill does not address the level of compensation for board members.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



Name: Allen Knudson

Agency: Legislative Council

Telephone: 328-2916

Date Prepared: 01/28/2013



Date: 2-21-13
Roll Call Vote #: _____

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1442

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Steiner Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chairman Randy Boehning	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Marie Strinden		
Rep. Karen Karls	X		Rep. Steven Zaiser		X
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 10 No 3

Absent 1

Floor Assignment Kasper

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

REPORT OF STANDING COMMITTEE

HB 1442: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).
HB 1442 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1442



A project of



Keeping Government Honest

[Home](#) | [Your State](#) | [Reform Efforts](#) | [State Integrity Blog](#) | [About](#)

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

[Email report card to officials](#)

Join The Community



Receive updates

Latest News

- Redistricting: GOP and Dems alike have cloaked the process in secrecy
- PUBLIC BETRAYAL: Massachusetts anti-corruption gaps fueled public servant misconduct
- State grades on executive accountability show room for improvement

Search Legislation on Scout

Powered by Scout, ©Sunlight Foundation

Like us on Facebook

[@StateIntegrity on Twitter](#)
[Follow @StateIntegrity](#)

1,696 followers

Click here to share this report card on your site

The story behind the score

North Dakota's "folksy" approach to government means lax campaign finance laws, no state ethics commission, and a failing grade on the State Integrity Index. Read more from SII State Reporter Teri Finneman.



Latest state news for North Dakota

Lawmakers in North Dakota Propose Broad Ethics Reforms

JAN 28, 2013

Lawmakers in North Dakota have introduced a package of ethics reform bills that would revamp the state's oversight of its politicians. Dubbed the Sunshine Act, the bills would create an ethics commission to investigate state officials and would tighten campaign finance reporting rules, among other changes.

Rep. Corey Mock, a Democrat, has been pushing for ethics reform unsuccessfully since entering office in 2009. But last year, Mock seized on the state's poor showing in the State Integrity Investigation, which gave North Dakota an overall grade of F, and announced he

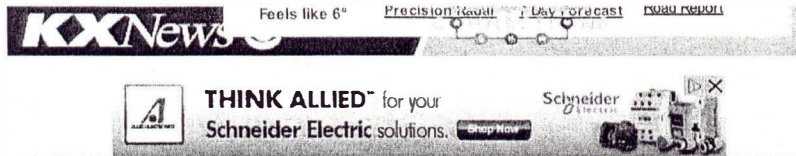


Attachment 2
1442

Date: Tue, 5 Feb 2013 20:31:10 +0000
To:
From: people@demnpl.com
Subject: Milk for Poor Kids vs. Tax Breaks for Big Oil

If ever there was a time for outrage in the state of North Dakota, it's now... if ever there were a time to stand up and get involved, it is now.
We have grown accustomed to having this Republican majority roll out the most outlandish and ridiculous legislation that anyone could imagine, but this crosses a line much bigger than that of politics—they have crossed a line of morality, and we won't stand quietly by!
Yesterday, House Republicans voted to NOT provide milk to needy kids in elementary schools across our state. **Yes, you read that correctly...on the heels of passionate testimony from Republicans on why multi-million dollar oil companies need tax breaks, totaling hundreds of millions of dollars, they have literally turned their backs on the most vulnerable among us...North Dakota children.**
It is our job to protect those who are most at risk, and it is our job to make sure that our representatives in office put North Dakota families and this country first—not some of the time, but ALL of the time.
North Dakota Democrats stand up for children and families. We hope that you do too. Join us in working to replace Republicans who vote against our children with Democrats who will fight for North Dakota families!

In Service,
Corey Mock
Assistant Democratic-NPL House Leader



Attachments
1442

Environmental Groups File Lawsuit Involving PSC Members

Posted: May 30, 2012 5:52 PM CDT

By Tom Gerhardt, News Director - email

Two North Dakota groups move forward with a lawsuit involving Public Service Commissioner's Kevin Cramer, Brian Kalk and Tony Clark.

The Sierra Club and the Dakota Resource Council have filed a citizens lawsuit. They say the three men have violated federal campaign contribution rules.

The lawsuit contends that Cramer, Kalk and Clark have all accepted campaign contributions from companies they regulate.

Wayde Schafer of the Sierra Club says, "The Surface Mining Control and Reclamation act is quite specific that the employees of the federal government and there agents, in this case it's the Public Service Commission since they are implementing the federal law that it is illegal for them to accept any contributions."

Public Service Commissioner Kevin Cramer calls the lawsuit frivolous and politically motivated.

He says he and commissioner Kalk can legally take the donations.

Public Service Commissioner Kevin Cramer responds, "The law allows people to contribute, our system encourages people to contribute to elected positions, people that they agree with, people that they think are more likely to carry out there philosophy, that persons philosophy, it's protected in the First Amendment of the Constitution, the same amendment that protects the presses right to exist, the Freedom of Expression."

The two groups are officially suing Secretary of the Interior Ken Salazar. The groups say he has failed to make sure conflict of interest rules have been implemented in North Dakota.

worldnow

General information or questions.

kxinfo@kxnet.com

News:

Bismarck:

Phone: [701-223-9197](tel:701-223-9197)

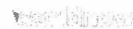
News Fax: [701-223-1985](tel:701-223-1985)

News:

Minot:

Phone: [701-852-2104](tel:701-852-2104)

News Fax: [701-838-1050](tel:701-838-1050)



All content © Copyright 2000 - 2013 WorldNow and KXNET. All Rights Reserved.
For more information on this site, please read our [Privacy Policy](#) and [Terms of Service](#)

Attachment 1
2-21-13

Testimony in favor of HB 1442

David Schwalbe, Bismarck
February 14, 2013

Mr. Chairman and members of the committee, I am David Schwalbe, a citizen of Bismarck who grew up in Dunn County.

A few words about the Corral Creek scandal and why we need an Ethics Commission.

A few key points. This is a very complicated issue, as Lynn Helms himself has stated.

1. We lost all rights, along with the state, to lease our minerals. All of the owners in the 12 existing wells lost our royalty payments. We're getting just a small fraction of what we should be getting.
2. We did not get a hearing at the Industrial Commission.
 - a. The meeting was scheduled for December 20, 2011.
 - b. On December 16, we got notices stating that the hearing was postponed for 45 days due to the complexities of the issue.
 - c. A large amount of money from the oil companies involved came into the governor's campaign during this brief period. Suddenly it wasn't complicated any more.
 - d. The Industrial Commission met and approved the Corral Creek unit on December 20 with no notice that they had changed their mind. Our attorneys and none of us were present. Everyone, including attorneys, is dumbfounded that a state agency would operate this way.
3. To take this to court would have required a retainer fee of \$250,000 up front and attorneys advised us not to bother because we were facing the third largest corporation in the world and the state government.
4. We had no place to turn. The attorney general is on the Industrial Commission and was part of this whole plan. Our only recourse was the citizens' petition for a grand jury, filed last week in Dunn County.
5. An Ethics Commission would have been the perfect venue for us to get an impartial hearing.
6. The people in the Corral Creek field and the state have lost millions of dollars we will never get back – none of us will live long enough to get the promised return because the oil companies have already violated their own drilling plan.

An Ethics Commission would have saved the people of the Corral Creek field thousands of dollars in attorney's fees and a lot of stress and anxiety. The matter would have been resolved and the truth would have been known much faster with a lot less publicity and accusations. We definitely would have used the Ethics Commission instead.

If proposed changes to the current citizens' petition to seat a grand jury pass the legislature this session, it is all the more important to provide for a reasonable, fair review process.