

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1521

That the Senate recede from its amendments as printed on pages 1899-1907 of the House Journal and pages 1660-1668 of the Senate Journal and that Engrossed House Bill No. 1521 be amended as follows:

Page 1, line 4, replace "section" with "sections"

Page 1, line 5, remove "subsection 4 of section 16.1-08.1-02.1, sections 16.1-08.1-02.3, 16.1-08.1-02.4,"

Page 1, line 6, replace "16.1-08.1-03.1" with "16.1-08.1-03.7"

Page 1, line 6, after "16.1-08.1-04.1" insert "16.1-08.1-06.2"

Page 1, line 6, remove "28-32-02,"

Page 1, line 7, remove "28-32-14,"

Page 1, line 8, remove "28-32-17, 28-32-18,"

Page 1, line 9, remove "28-32-27,"

Page 1, line 10, remove "disqualification of agency heads in quasi-judicial proceedings,"

Page 1, line 12, after the first semicolon insert "to provide for a legislative management study;"

Page 1, line 13, remove "to provide an expiration date;"

Page 1, line 19, remove ""Adjusted for inflation" means adjusted on January first of each year by the change in"

Page 1, remove lines 20 and 21

Page 1, line 22, remove "2."

Page 2, line 6, remove the overstrike over "2:"

Page 2, line 6, remove "3."

Page 2, line 13, remove the overstrike over "3:"

Page 2, line 13, remove "4."

Page 2, line 26, remove the overstrike over "4:"

Page 2, line 26, remove "5."

Page 3, line 3, remove the overstrike over "5:"

Page 3, line 3, remove "6."

Page 3, line 29, remove the overstrike over "6:"

Page 3, line 29, remove "7."

Page 4, line 4, remove the overstrike over "7:"

Page 4, line 4, remove "8."

Page 4, line 14, remove the overstrike over "~~8.~~"

Page 4, line 14, remove "9."

Page 4, line 21, remove the overstrike over "~~9.~~"

Page 4, line 21, remove "10."

Page 4, line 26, remove the overstrike over "~~10.~~"

Page 4, line 26, remove "11."

Page 4, line 28, remove the overstrike over "~~11.~~"

Page 4, line 28, remove "12."

Page 5, line 1, remove the overstrike over "~~12.~~"

Page 5, line 1, remove "13."

Page 5, line 4, remove the overstrike over "~~13.~~"

Page 5, line 4, remove "14."

Page 5, line 26, remove the overstrike over "~~14.~~"

Page 5, line 26, remove "15."

Page 5, line 30, remove the overstrike over "~~15.~~"

Page 5, line 30, remove "16."

Page 6, line 10, remove the overstrike over "~~16.~~"

Page 6, line 10, remove "17."

Page 6, line 12, remove the overstrike over "~~17.~~"

Page 6, line 12, remove "18."

Page 6, line 14, replace "19." with "18."

Page 6, line 14, replace "who" with "that"

Page 6, line 15, remove ", adjusted for inflation."

Page 6, remove lines 17 through 30

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 29

Page 10, remove lines 1 through 31

Page 11, remove lines 1 through 31

Page 12, remove lines 1 through 31

Page 13, replace lines 1 through 6 with:

"SECTION 2. AMENDMENT. Section 16.1-08.1-03.7 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.7. Political committees that organize and register according to federal law that make independent expenditures or disbursements to nonfederal candidates, political parties, and political committees.

A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office or to a political party or political committee in this state shall file a copy of that portion of the committee's federal report detailing the independent expenditure or the disbursement made. The political committee shall file a copy of the committee's federal report, and supplementary information as necessary under this section, with the secretary of state at the time of filing the report with the applicable federal agency. The report and supplementary information must include:

1. The name, mailing address, and treasurer of the political committee;
2. The recipient's name and mailing address; ~~and~~
3. The date and amount of the independent expenditure or disbursement; and
4. The ultimate and true source of funds listed by contributor and subcontributor of any amount over two hundred dollars collected or used to make the independent expenditure or disbursement including:
 - a. The name and address of the contributor;
 - b. The total amount of the contribution; and
 - c. The date the last contribution was received."

Page 13, line 17, remove "For the first violation, the secretary of state shall assess a civil penalty of five hundred"

Page 13, replace lines 18 through 21 with "The secretary of state shall assess a civil penalty upon any person that knowingly violates this section.

- a. If the contribution used in violation of this section has a value of two thousand five hundred dollars or more, the civil penalty must be two times the value of the contribution.
- b. If the contribution used in violation of this section has a value of less than two thousand five hundred dollars, the civil penalty must be at least two times the value of the contribution and may be up to five thousand dollars.
3. The assessment of a civil penalty may be appealed to the district court of the county where the candidate resides.

SECTION 4. AMENDMENT. Section 16.1-08.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-06.2. Secretary of state to provide instructions, make adjustments for inflation, and conduct training.

The secretary of state shall provide instructions and conduct training for the purpose of promoting uniform application of campaign finance and disclosure requirements and the uniform filing of statements, registrations, or reports according to this chapter. The secretary also shall determine adjustments for inflation of the reporting thresholds in this chapter and instruct persons submitting reports under this chapter of the adjustments. On January first of each year, the secretary shall determine whether the accumulated change in the consumer price index for all urban consumers (all items, United States city average), as applied to each reporting threshold in this chapter, would result in an adjustment of at least ten dollars of the threshold in effect on that date. If so, the secretary shall deem the reporting threshold adjusted by ten dollars."

Page 13, line 24, remove "- Penalty"

Page 13, line 25, replace "report" with "statement"

Page 13, line 30, remove "A failure to"

Page 13, remove line 31

Page 18, remove lines 16 through 29

Page 19, remove lines 1 through 3

Page 19, line 7, remove "commission or an"

Page 19, line 7, after the second comma insert "or the commission"

Page 20, line 13, remove ", or"

Page 20, line 14, remove "the Constitution of North Dakota is amended to eliminate the authority"

Page 22, line 14, remove "or the commission"

Page 22, line 16, remove "or commission"

Page 22, line 18, remove "or commission"

Page 23, line 2, remove "or the commission"

Page 23, line 13, remove "or commission"

Page 23, line 14, remove "or commission"

Page 23, line 16, remove "or commission"

Page 23, line 17, after "to" insert "the ethics commission,"

Page 23, line 18, overstrike "nor does this section apply to" and insert immediately thereafter "and"

Page 24, line 7, remove "or the commission"

Page 26, line 11, remove "enacted during the most recent session of the"

Page 26, line 12, replace "legislative assembly which" with "that"

Page 28, remove lines 17 through 31

Page 29, line 6, after "rule" insert ", if any."

Page 30, remove lines 9 through 31

Page 31, remove lines 1 through 31

Page 32, remove lines 1 through 31

Page 33, remove lines 1 and 2

Page 34, remove lines 11 through 30

Page 35, remove lines 1 through 24

Page 37, line 15, replace "an individual" with "a lobbyist, public official, candidate for public office, political committee, or contributor"

Page 37, line 17, replace "government ethics" with "transparency, corruption, elections, or lobbying"

Page 37, line 18, remove "Adjusted for inflation" means adjusted on January first of each year by the change in"

Page 37, remove lines 19 and 20

Page 37, line 21, remove "3."

Page 37, line 23, replace "4." with "3."

Page 37, line 23, after "that" insert "a lobbyist, public official, candidate for public office, political committee, or contributor has violated"

Page 37, line 25, replace "government ethics has been violated" with "transparency, corruption, elections, or lobbying"

Page 37, line 26, replace "5." with "4."

Page 37, line 28, replace "6." with "5."

Page 37, line 29, after "recreation" insert ", except:

- a. Purely informational material;
- b. A campaign contribution; and
- c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state"

Page 37, line 30, replace "7." with "6."

Page 37, line 30, remove "final"

Page 38, line 1, replace "8." with "7."

Page 38, line 2, replace "9." with "8."

Page 38, line 3, replace "10." with "9."

Page 38, line 6, replace "11." with "10."

Page 38, line 8, replace "12." with "11."

Page 38, line 9, remove ", adjusted for inflation."

Page 38, line 12, remove ", adjusted for"

Page 38, line 13, remove "inflation."

Page 38, line 16, replace "who" with "that"

Page 38, line 16, remove "adjusted for"

Page 38, line 17, replace "inflation" with "not including the individual's own travel expenses and membership dues"

Page 38, line 18, replace "The" with "A"

Page 38, line 19, after "report" insert "under this subsection"

Page 38, line 26, remove "within forty days after the deadlines"

Page 38, line 27, remove "by which the reports must be filed"

Page 38, line 28, remove "This section does not require a person to report the ultimate and true source of funds"

Page 38, remove lines 29 through 31

Page 39, remove lines 1 through 10

Page 39, line 11, remove "5."

Page 39, line 14, remove "A failure to"

Page 39, replace line 15 with:

"5. The secretary of state shall determine adjustments for inflation of the reporting thresholds in this section and instruct persons submitting reports under this section of the adjustments. On January first of each year, the secretary shall determine whether the accumulated change in the consumer price index for all urban consumers (all items, United States city average), as applied to each reporting threshold in this section, would result in an adjustment of at least ten dollars of the threshold in effect on that date. If so, the secretary of state shall deem the reporting threshold adjusted by ten dollars."

Page 39, line 18, remove "with a value over sixty dollars per"

Page 39, line 19, remove "individual per event, adjusted for inflation."

Page 39, line 19, remove ", except to"

Page 39, remove lines 20 through 31

Page 40, remove lines 1

Page 40, line 2, remove "by the ethics commission"

Page 40, line 4, remove the underscored colon

Page 40, line 5, replace "a. A" with "a"

Page 40, line 5, remove the underscored semicolon

Page 40, remove line 6

Page 40, line 7, remove "c. A campaign contribution"

Page 40, line 8, remove "For the first violation, the secretary of state shall assess a civil penalty of five hundred"

Page 40, replace lines 9 through 12 with "The secretary of state shall assess a civil penalty upon any individual who violates this section."

a. If the gift has a value of five hundred dollars or more, the civil penalty must be two times the value of the gift.

b. If the gift has a value of less than five hundred dollars, the civil penalty must be no less than two times the value of the gift and may be up to one thousand dollars."

Page 40, line 14, replace "**Investigator**" with "**Office**"

Page 40, line 19, remove "The ethics commission shall meet as necessary to address each complaint the"

Page 40, line 20, remove "commission receives."

Page 40, line 21, replace "54-66-10" with "54-66-09"

Page 41, line 6, remove "Commission members shall hire or otherwise engage a part-time administrative"

Page 41, replace lines 7 through 10 with "The director of the office of management and budget shall allocate office space in the state capitol for the ethics commission, or, if office space in the capitol is unavailable, shall negotiate for, contract for, and obtain office space for the ethics commission in the city of Bismarck or in the Bismarck area. The ethics commission's office space may not be located in the office space of any other government agency, board, commission, or other governmental entity, and must provide sufficient privacy and security for the ethics commission to conduct its business. The director shall charge the ethics commission an amount equal to the fair value of the office space and related services the office of management and budget renders to the ethics commission."

Page 41, line 11, remove "**- Identifying information - False complaints**"

Page 41, line 12, remove "1."

Page 41, line 12, after "writing" insert ". If a complainant does not provide the complainant's name, address, and telephone number with the complaint, the ethics commission may not investigate, refer, or take other action regarding the complaint. The commission shall summarize each oral complaint in writing unless the complaint must be disregarded under this section"

Page 41, line 12, remove "When making a"

Page 41, remove lines 13 through 23

Page 41, line 28, replace "ten" with "twenty"

Page 41, line 29, replace "ten" with "twenty"

Page 42, line 2, replace "may" with "shall"

Page 42, line 3, after "complainant" insert "unless the commission disregards the complaint pursuant to section 54-66-05 or for any other reason. The accused individual may be accompanied by legal counsel in a negotiation or mediation"

Page 42, remove lines 4 through 29

Page 43, replace lines 1 through 21 with:

54-66-08. Investigations - Referrals.

1. If an informal resolution is not reached under section 54-66-07, the ethics commission may:
 - a. Disregard the complaint;
 - b. Require ethics commission staff to investigate the allegations in the complaint; or
 - c. Engage an outside investigator to investigate allegations in the complaint.
2. If the commission believes a complaint contains allegations of criminal conduct, the ethics commission shall refer the allegations of criminal conduct to the bureau of criminal investigations or other law enforcement agency and may not take further action on the referred allegations. The commission shall inform the accused individual by registered mail of a referral under this section and the nature of the referred allegations as soon as reasonably possible.

54-66-09. Investigation findings - Ethics commission determinations.

1. An investigator, other than a law enforcement agency, of a complaint shall provide written findings of the investigation to the ethics commission within a reasonable amount of time. The ethics commission shall provide copies of the written findings to the accused individual, who may respond to the commission in person or in writing within a reasonable time. If the accused individual responds in person, no fewer than three members of the commission shall meet in a closed meeting with the accused individual. An accused individual may be accompanied by legal counsel when responding to the commission in person.
2. After providing a reasonable time for an accused individual to respond to the investigation findings and considering any response to the findings, the ethics commission shall determine whether a violation of article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying occurred, and inform the accused individual of the determination. If the commission determined a violation occurred, the commission may impose a penalty authorized by law for the violation or refer the matter to the agency with enforcement authority over the violation.
3. The commission may not terminate the employment of a public official or otherwise remove a public official from the public official's public office.

4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling, recommended finding of fact, recommended conclusion of law, finding of fact, conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the hearing officer failed to grant a request for disqualification under section 28-32-27 or failed to comply with subsection 5 of section 2 of article XIV of the Constitution of North Dakota.

54-66-10. Appeals.

An accused individual may appeal a finding of the ethics commission to the district court of the county where the accused individual resides.

54-66-11. Rulemaking.

When adopting rules, the ethics commission shall follow the provisions in chapter 28-32 which are specifically applicable to the commission."

Page 43, line 22, replace "**54-66-11.**" with "**54-66-12.**"

Page 43, line 22, remove "**- Penalty**"

Page 43, line 26, replace "government ethics" with "transparency, corruption, elections, or lobbying."

Page 43, line 30, remove "or"

Page 43, line 31, remove "complainant"

Page 44, line 5, remove "or"

Page 44, line 6, remove "complainant"

Page 44, line 10, remove "Willful publication of information included in subsections 1 and 2 by a person who"

Page 44, line 11, replace "knows the information to be false is criminal defamation under section 12.1-15-01" with "Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. However, the ethics commission shall notify an accused individual of the identity of the complainant who made an allegation against the accused individual, and the information deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint"

Page 44, line 12, replace "A public official who violates this section is guilty of a class C felony." with "The information deemed confidential in subsections 1 and 2 may be disclosed by the ethics commission if the accused individual agrees to the disclosure."

Page 44, line 13, replace "**54-66-12.**" with "**54-66-13.**"

Page 44, replace lines 14 through 17 with "A knowing violation of subsection 2 of section 2 of article XIV of the Constitution of North Dakota is a class A misdemeanor. The ethics commission shall assess a civil penalty of up to one thousand dollars on any individual who knowingly violates the subsection."

Page 44, line 18, replace "**54-66-13.**" with "**54-66-14.**"

Page 44, line 19, after "commission" insert "unless the commission objects to representation by the attorney general in a specific matter"

Page 44, line 23, replace "**54-66-14.**" with "**54-66-15.**"

Page 44, line 27, replace "person" with "individual"

Page 44, line 27, remove "and may revoke the lobbyist's registration"

Page 44, line 29, after "misdemeanor" insert ", and, if the lobbyist is a registered lobbyist, the secretary of state may revoke the lobbyist's registration. For purposes of this section, "deliver" means to transport, transfer, or otherwise transmit, either physically or electronically. This prohibition does not apply to an individual who delivers a campaign contribution to the individual's own campaign or to the campaign of the individual's immediate family member. This prohibition may not be interpreted to prohibit any person from making a campaign contribution, encouraging others to make a campaign contribution, or otherwise supporting or opposing a candidate."

54-66-16. Removal of ethics commission members.

1. An ethics commission member may be removed from office for:
 - a. Substantial neglect of duty;
 - b. Gross misconduct in office;
 - c. Violation of the commission's code of ethics; or
 - d. Willful or habitual neglect or refusal to perform the duties of the member.
2. Removal of an ethics commission member under subsection 1 requires agreement by a majority of:
 - a. The governor;
 - b. The majority leader of the senate; and
 - c. The minority leader of the senate.

54-66-17. Participation in quasi-judicial proceedings.

For purposes of subsection 5 of section 2 of article XIV of the Constitution of North Dakota, an individual is not disqualified from participating in any capacity in a quasi-judicial proceeding, including an adjudicative proceeding under chapter 28-32, due to an investment in a mutual fund, an ownership interest in one of the parties to the proceeding which is shared by the general public, and an investment or ownership interest in a retirement account of one of the parties to the proceeding"

Page 44, line 31, replace "\$300,000" with "\$517,155"

Page 45, line 3, replace "one and one-half" with "two"

Page 45, line 4, replace "1, 2, 3, 4, 5, and 7" with "1, 3, 4, and 5"

Page 45, line 4, replace "section" with "sections"

Page 45, line 5, after "54-66-02" insert "and 54-66-03"

Page 45, line 5, replace "32" with "25"

Page 45, line 6, replace "2022" with "2021"

Page 45, remove lines 7 through 11

Page 45, line 12, after "Sections" insert "6, 7,"

Page 45, line 13, after the first comma insert "and"

Page 45, line 13, replace ", 24, 25, 26, 27, 28, 29, 30, and 31" with ", and 24"

Renumber accordingly