



North Dakota Legislative Council

Prepared by Legislative Council staff
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AMENDMENT TO HOUSE BILL NO. 1505 (LC# 25.1244.01010)

Section 1

Section 1 of the bill grants immunity to an individual who might otherwise be prosecuted for the specific crime of speculating or wagering on official action or information because the individual cast a vote on a legislative measure. If the individual discloses his or her potential conflict of interest as required under North Dakota Century Code Section 54-66-18, the individual is immune from prosecution.

Section 2

Section 2 of the bill also grants immunity to an individual who might otherwise be prosecuted *for any crime* because the individual cast a vote on a legislative measure. However, if the individual discloses his or her potential conflict of interest as required under Section 54-66-18, the individual, and any organization for which the individual may act on behalf of, is immune from prosecution for any crime resulting from that vote.

Additionally, if an individual is prosecuted for a crime because the individual cast a vote on a legislative measure, the individual may raise as a defense his or her reliance on informal guidance from the Executive Director of the Ethics Commission, if good faith and substantially similar material facts exist, or his or her reliance on written guidance issued by the Executive Director of the Ethics Commission.

Section 3

Section 3 is a new section in Chapter 54-66 that permits the Executive Director of the Ethics Commission to prepare a report and recommendation to the Ethics Commission. The Ethics Commission will close the matter, require additional information, or issue an alleged violation. At any time, the Ethics Commission may settle and close the matter, including issuing an advisory opinion pursuant to Section 54-66-04.2 or informal guidance pursuant to the commission's rules.

Section 4

Section 4 reflects the proposed enforcement action rules of the Ethics Commission. It offers additional venues for appeal of an order of the Ethics Commission and limits the time for appeal to thirty days after notice of the order. In addition to the county where the respondent lives, an individual may appeal in the District Court in Burleigh County or any county where the alleged violation took place.

Section 5

Section 5 governs the confidentiality of information related to an investigation by the Ethics Commission. Generally speaking, this section makes the information related to the investigation confidential. The amendment updates terminology to reflect the enforcement action and removes the reference to an informal resolution, which is being removed from the process.

Section 5 also guarantees the respondent may disclose confidential information related to the enforcement action at his or her discretion, addressing one of the several problems that has affected members of the Legislative Assembly. The identity of an individual who provides information to the Ethics Commission remains confidential if the individual desires.

Section 6

Section 6 governs the conflicts of interest rules, which must be adopted by the Legislative Assembly. This section states a member must disclose a potential conflict of interest relating to any bill in which the member may have a direct, unique, substantial, or individual interest. "Substantial" and "direct" have been removed. "Substantial" may be problematic based on North Dakota caselaw in which the North Dakota Supreme Court found the amount of a conflict of interest was not significant, but any conflict should be disclosed. Further, the court held a threshold created two separate classes of legislators and violated Equal Protection. "Direct" may be problematic because a bill might directly affect all property holders in the state on a property tax bill.

Section 7

This application clause provides the Act applies only to actions occurring on or after the effective date.

Section 8

The emergency clause provides the Act becomes effective upon its filing by the Secretary of State.