

April 30, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2004

Introduced by

Appropriations Committee

In place of amendment (25.0171.02007) adopted by the House, Engrossed Senate Bill No. 2004 is amended by amendment (25.0171.02016) as follows:

1 A BILL for an Act to provide an appropriation for defraying the expenses of the ethics
2 commission; to create and enact a new section to chapter 54-03 and two new sections to
3 chapter 54-66 of the North Dakota Century Code, relating to immunity and a defense for
4 individuals voting on legislation, rules for complaint management time standards, and an ethics
5 commission annual report; to amend and reenact section 12.1-13-02, section 54-66-07,
6 subsection 2 of section 54-66-08, subsection 4 of section 54-66-12, and section 54-66-18 of the
7 North Dakota Century Code, relating to immunity from criminal prosecution, confidential
8 information related to a complaint made to the ethics commission, informal resolution, law
9 enforcement referrals, and conflicts of interest; and to declare an emergency.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
12 as may be necessary, are appropriated out of any moneys in the general fund in the state
13 treasury, not otherwise appropriated, to the ethics commission for the purpose of defraying the
14 expenses of the ethics commission, for the biennium beginning July 1, 2025, and ending
15 June 30, 2027, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
18 Ethics commission	\$1,041,374	\$308,563	\$1,349,937
19 New and vacant FTE pool	0	246,304	246,304

1	Total general fund	\$1,041,374	\$554,867	\$1,596,241
2	Full-time equivalent positions	3.00	1.00	4.00
3	Ethics commission	\$1,041,374	\$292,273	\$1,333,647
4	New and vacant FTE pool	0	9,935	9,935
5	Total	\$1,041,374	\$302,208	\$1,343,582
6	Less other funds	0	50,000	50,000
7	Total general fund	\$1,041,374	\$252,208	\$1,293,582
8	Full-time equivalent positions	3.00	0.00	3.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>General Fund</u>
Case management system	\$50,000
Office furniture	2,348
New FTE position one-time costs	5,484
Total	\$57,832

<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Case management system	\$0	\$50,000	\$50,000
Office furniture	2,348	0	2,348
Total	\$2,348	\$50,000	\$52,348

SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST. The

ethics commission may not spend funds appropriated in the new and vacant FTE pool line item in section 1 of this Act, but may request the office of management and budget to transfer funds from the new and vacant FTE pool line item to the ethics commission line item in accordance with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the sixty-ninth legislative assembly.

SECTION 4. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.

The other funds line item in section 1 of this Act includes the sum of \$50,000 from the strategic investment and improvements fund for a case management system.

1 **SECTION 5. AMENDMENT.** Section 12.1-13-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **12.1-13-02. Speculating or wagering on official action or information.**

- 4 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
5 public servant, or within one year thereafter, in contemplation of official action by
6 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the
7 individual is or has been associated as a public servant, or in reliance on information
8 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
9 public servant, ~~he~~the individual:
- 10 a. Acquires a pecuniary interest in any property, transaction, or enterprise which
11 may be affected by ~~such~~the information or official action;
- 12 b. Speculates or wagers on the basis of ~~such~~the information or official action; or
- 13 c. Aids another individual to do any of the foregoing.
- 14 2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the
15 individual takes official action which is likely to benefit ~~him~~the individual as a result of
16 an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a
17 speculation or wager, which ~~he~~the individual made, or caused or aided another to
18 make, in contemplation of ~~such~~the official action.
- 19 3. An individual is immune from prosecution under this section if:
- 20 a. The individual was a member of the legislative assembly at the time the official
21 action was taken;
- 22 b. The official action was a vote on a measure in the senate or house of
23 representatives or a legislative committee; and
- 24 c. The individual adhered to legislative conflict of interest rules requiring an
25 individual to disclose a personal or private interest to the member's respective
26 chamber of the legislative assembly, a legislative committee, the president of the
27 senate, or the speaker of the house.

28 **SECTION 6.** A new section to chapter 54-03 of the North Dakota Century Code is created
29 and enacted as follows:

30 **Voting on legislation - Immunity - Affirmative defense.**

31 If an individual who is a member of the legislative assembly adheres to:

1 1. Legislative rules requiring an individual to disclose a personal or private interest to the
2 member's respective chamber of the legislative assembly, a legislative committee, the
3 president of the senate, or the speaker of the house, the individual and an
4 organization for which the individual is an agent, as defined in section 12.1-03-04, is
5 immune from criminal prosecution under the laws of this state for an offense arising
6 from the individual voting on a measure in a legislative committee, the senate, or the
7 house of representatives.

8 2. Informal advice from a staff member of the ethics commission, reliance on the advice
9 is an affirmative defense in a prosecution for an offense arising from the individual
10 voting on a measure in a legislative committee, the senate, or the house of
11 representatives.

12 **SECTION 7. AMENDMENT.** Section 54-66-07 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-66-07. Informal resolution.**

15 The commission ~~shall attempt to~~ may negotiate ~~or mediate~~ an informal resolution
16 ~~between~~ with the accused individual ~~and the complainant~~ unless the commission summarily
17 dismissed the complaint under section 54-66-05. The accused individual may be accompanied
18 by legal counsel in a negotiation or mediation.

19 **SECTION 8. AMENDMENT.** Subsection 2 of section 54-66-08 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 2. If the commission believes a complaint contains allegations of criminal conduct, the
22 matter ~~must~~ may be coordinated with the appropriate law enforcement agency with
23 jurisdiction over the offense. If the law enforcement agency agrees to accept a referral
24 for ~~possible~~ criminal prosecution, the commission may not take further action on the
25 complaint until the law enforcement agency informs the commission law enforcement
26 proceedings regarding the complaint are complete. If the law enforcement agency
27 declines a referral for prosecution, the commission may investigate the complaint
28 under the rules adopted by the commission. If the law enforcement agency takes no
29 action on the referral for prosecution within sixty days, the commission may resume its
30 review of the complaint. Unless the agency accepting the referral objects, the

1 commission shall inform the complainant and respondent as soon as reasonably
2 possible of a referral and the nature of the referred allegations.

3 **SECTION 9. AMENDMENT.** Subsection 4 of section 54-66-12 of the North Dakota Century
4 Code is amended and reenacted as follows:

- 5 4. The information deemed confidential in subsections 1 and 2 may be disclosed by the
6 accused individual and the ethics commission if the accused individual agrees to the
7 disclosure.

8 **SECTION 10. AMENDMENT.** Section 54-66-18 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-66-18. Conflicts of interest - Legislative assembly.**

- 11 1. Each legislative assembly shall adopt conflict of interest rules. The rules must:
12 a. Require the disclosure by a member of a potential conflict of interest relating to
13 any bill in which the member may have a ~~direct, unique, substantial, or~~ and
14 individual interest.
15 b. Ensure a mechanism is in place to record each disclosure and make it readily
16 available to the public.
17 2. If the legislative assembly adopts rules under subsection 1 which are at least as
18 restrictive as the conflict of interest rules adopted by the ethics commission, the
19 disclosure process portion of the conflict of interest rules adopted by the ethics
20 commission may not apply to members of the legislative assembly.

21 **SECTION 11.** A new section to chapter 54-66 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Complaint management time standards.**

24 The commission shall adopt rules for the efficient and timely disposition of complaints from
25 receipt to resolution.

26 **SECTION 12.** A new section to chapter 54-66 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Ethics commission annual report.**

- 29 1. The ethics commission shall prepare an annual report each fiscal year. The ethics
30 commission shall make the annual report available on its public website within sixty
31 days of the end of each fiscal year.

- 1 2. The annual report must include:
- 2 a. The number of complaints received by the commission, the status of those
- 3 complaints, the commission's actions to resolve the complaints, and the timing
- 4 related to those actions;
- 5 b. The number of advisory opinions requested and issued, as well as information
- 6 regarding general conflict disclosures and quasi-judicial disclosures received;
- 7 and
- 8 c. Information regarding education and outreach and the status of the commission's
- 9 budget.
- 10 3. The annual report may include recommendations for new or revised laws, rules, or
- 11 policies that could improve the confidence that North Dakota citizens have in their
- 12 government.

13 **SECTION 13. EMERGENCY.** Sections 5, 6, 7, 8, 9, and 10 of this Act are declared to be an
14 emergency measure.