

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with House Amendments**

ENGROSSED SENATE BILL NO. 2004

Introduced by

Appropriations Committee

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, closure of an ethics commission investigation, and an ethics
5 commission annual report; to amend and reenact section 12.1-13-02, subsection 4 of section
6 54-66-12, and section 54-66-18 of the North Dakota Century Code, relating to immunity from
7 criminal prosecution, confidential information related to a complaint made to the ethics
8 commission, and conflicts of interest; and to declare an emergency.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 Ethics commission	\$1,041,374	\$292,273	\$1,333,647
18 New and vacant FTE pool	<u>0</u>	<u>9,935</u>	<u>9,935</u>
19 Total	\$1,041,374	\$302,208	\$1,343,582
20 Less other funds	<u>0</u>	<u>50,000</u>	<u>50,000</u>
21 Total general fund	\$1,041,374	252,208	\$1,293,582
22 Full-time equivalent positions	3.00	0.00	3.00

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

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

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

10 **SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The
11 ethics commission may not spend funds appropriated in the new and vacant FTE pool line item
12 in section 1 of this Act, but may request the office of management and budget to transfer funds
13 from the new and vacant FTE pool line item to the ethics commission line item in accordance
14 with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the
15 sixty-ninth legislative assembly.

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

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

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

21 **12.1-13-02. Speculating or wagering on official action or information.**

- 22 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
23 public servant, or within one year thereafter, in contemplation of official action by
24 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the
25 individual is or has been associated as a public servant, or in reliance on information
26 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
27 public servant, ~~he~~the individual:
- 28 a. Acquires a pecuniary interest in any property, transaction, or enterprise which
29 may be affected by ~~such~~the information or official action;
 - 30 b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - 31 c. Aids another individual to do any of the foregoing.

- 1 2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the
2 individual takes official action which is likely to benefit ~~him~~the individual as a result of
3 an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a
4 speculation or wager, which ~~he~~the individual made, or caused or aided another to
5 make, in contemplation of ~~such~~the official action.
- 6 3. An individual is immune from prosecution under this section if:
- 7 a. The individual was a member of the legislative assembly at the time the official
8 action was taken;
- 9 b. The official action was a vote on a measure in the senate or house of
10 representatives or a legislative committee; and
- 11 c. The individual adhered to legislative conflict of interest rules requiring an
12 individual to disclose a personal or private interest to the member's respective
13 chamber of the legislative assembly, legislative committee, the president of the
14 senate, or the speaker of the house.

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

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

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

- 19 1. Legislative rules requiring an individual to disclose a personal or private interest to the
20 member's respective chamber of the legislative assembly, a legislative committee, the
21 president of the senate, or speaker of the house, the individual and an organization for
22 which the individual is an agent, as defined in section 12.1-03-04 is immune from
23 criminal prosecution under the laws of this state for an offense arising from the
24 individual voting on a measure in a legislative committee, the senate, or the house of
25 representatives.
- 26 2. Informal advice from a staff member of the ethics commission, reliance on the advice
27 is an affirmative defense in a prosecution for an offense arising from the individual
28 voting on a measure in a legislative committee, the senate, or the house of
29 representatives.

30 **SECTION 7.** A new section to chapter 54-66 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Issuance of alleged violation - Closure of the matter.**

2 Upon completion of an investigation, the executive director shall prepare a report and
3 recommendation to the commission to close the matter or issue an alleged violation. The
4 commission may issue an alleged violation, require additional investigation, or close the matter.
5 Each case must be closed within one hundred eighty days of receipt by the commission of the
6 underlying complaint.

7 **SECTION 8. AMENDMENT.** Subsection 4 of section 54-66-12 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 4. The information deemed confidential in subsections 1 and 2 may be disclosed by the
10 accused individual and the ethics commission if the accused individual agrees to the
11 disclosure.

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

14 **54-66-18. Conflicts of interest - Legislative assembly.**

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

25 **SECTION 10.** A new section to chapter 54-66 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Ethics commission annual report.**

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

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

12 **SECTION 11. EMERGENCY.** Sections 5, 6, 7, 8, and 9 of this Act are declared to be an
13 emergency measure.