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Title.
Fiscal No. 3

Prepared by the Legislative Council
staff for House Appropriations -
Education and Environment Division
Committee

April 8, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2004

Introduced by

Appropriations Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission; to create and enact a new section to chapter 54-03 and two new sections to chapter 54-66 of the North Dakota Century Code, relating to immunity and a defense for individuals voting on legislation, closure of an ethics commission investigation and an ethics commission annual report; to amend and reenact section 12.1-13-02, subsection 4 of section 54-66-12, and section 54-66-18 of the North Dakota Century Code, relating to immunity from criminal prosecution, confidential information related to a complaint made to the ethics commission, and conflicts of interest; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

	Adjustments or		
	Base Level	Enhancements	Appropriation
Ethics commission	\$1,041,374	\$308,563	\$1,349,937
New and vacant FTE pool	0	246,304	246,304
Total general fund	\$1,041,374	\$554,867	\$1,596,241

1	Full-time equivalent positions	3.00	1.00	4.00
2	Ethics commission	\$1,041,374	\$242,273	\$1,283,647
3	New and vacant FTE pool	0	9,935	9,935
4	Total general fund	\$1,041,374	\$252,208	\$1,293,582
5	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:

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

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

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

1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a public servant, or within one year thereafter, in contemplation of official action by ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the individual is or has been associated as a public servant, or in reliance on information

1 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
2 public servant, ~~he~~the individual:

- 3 a. Acquires a pecuniary interest in any property, transaction, or enterprise which
4 may be affected by ~~such~~the information or official action;
5 b. Speculates or wagers on the basis of ~~such~~the information or official action; or
6 c. Aids another individual to do any of the foregoing.

- 7 2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the
8 individual takes official action which is likely to benefit ~~him~~the individual as a result of
9 an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a
10 speculation or wager, which ~~he~~the individual made, or caused or aided another to
11 make, in contemplation of ~~such~~the official action.

- 12 3. An individual is immune from prosecution under this section if:

- 13 a. The individual was a member of the legislative assembly at the time the official
14 action was taken;
15 b. The official action was a vote on a measure in the senate or house of
16 representatives or a legislative committee; and
17 c. The individual adhered to legislative conflict of interest rules requiring an
18 individual to disclose a personal or private interest to the member's respective
19 chamber of the legislative assembly, legislative committee, the president of the
20 senate, or the speaker of the house.

21 **SECTION 5.** A new section to chapter 54-03 of the North Dakota Century Code is created
22 and enacted as follows:

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

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

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

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

SECTION 6. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Issuance of alleged violation - Closure of the matter.

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

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

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

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

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

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

1 **SECTION 9.** A new section to chapter 54-66 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Ethics commission annual report.**

- 4 1. The ethics commission shall prepare an annual report each fiscal year. The ethics
5 commission shall make the annual report available on its public website within sixty
6 days of the end of each fiscal year.
- 7 2. The annual report must include information regarding:
- 8 a. The number of complaints received by the commission, the status of those
9 complaints, the commission's actions to resolve the complaints, and the timing
10 related to those actions;
- 11 b. The number of advisory opinions requested and issued, as well as information
12 regarding general conflict disclosures and quasi-judicial disclosures received;
13 and
- 14 c. Information regarding education and outreach and the status of the commission's
15 budget.
- 16 3. The annual report may include recommendations for new or revised laws, rules, or
17 policies that could improve the confidence that North Dakota citizens have in their
18 government.

19 **SECTION 10. EMERGENCY.** Sections 4, 5, 6, 7, and 8 of this Act are declared to be an
20 emergency measure.

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2004 - Ethics Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
New and vacant FTE pool		\$246,304	(\$236,369)	\$9,935
Ethics Commission	\$1,041,374	1,349,937	(66,290)	1,283,647
Total all funds	\$1,041,374	\$1,596,241	(\$302,659)	\$1,293,582
Less estimated income	0	0	0	0
General fund	\$1,041,374	\$1,596,241	(\$302,659)	\$1,293,582
FTE	3.00	4.00	(1.00)	3.00

Department 195 - Ethics Commission - Detail of House Changes

	Removes Communication and Education FTE Position ¹	Removes One- Time Funding for Case Management System ²	Total House Changes
New and vacant FTE pool	(\$236,369)		(\$236,369)
Ethics Commission	(16,290)	(\$50,000)	(66,290)
Total all funds	(\$252,659)	(\$50,000)	(\$302,659)
Less estimated income	0	0	0
General fund	(\$252,659)	(\$50,000)	(\$302,659)
FTE	(1.00)	0.00	(1.00)

¹ A communication and education FTE position and related operating costs added by the Senate are removed.

² One-time funding added by the Senate for a case management system is removed.

Senate Bill No. 2004 - Other Changes - House Action

This amendment also:

- Creates and amends various sections relating to immunity and affirmative defense and other provisions relating to the Ethics Commission.
- Creates a new section to require the Ethics Commission to prepare an annual report.