



## TESTIMONY

*Jon Godfread, Insurance Commissioner*

Senate State and Local Committee

March 28, 2025

Madam Chair and members of the Senate State and Local Committee,

I am North Dakota Insurance Commissioner Jon Godfread, and I appreciate the opportunity to submit testimony in strong support of House Bill 1601, as amended by the House. This legislation seeks to amend Section 54-12-08 of the North Dakota Century Code concerning the appointment and revocation of Special Assistant Attorneys General (SAAGs).

House Bill 1601, as amended, provides critical clarity and protection regarding the appointment and retention of SAAGs employed by certain constitutional officers, including the Insurance Commissioner. Specifically, it ensures that the Attorney General may not refuse to appoint or revoke the appointment of a SAAG who is licensed to practice law in North Dakota, is in good standing, and is employed by specified constitutional officers.

I support HB1601 for the following reasons:

### ***Preservation of Institutional Knowledge and Continuity***

SAAGs within our department possess deep expertise and institutional knowledge. Their continued service is vital for maintaining consistency in legal counsel, regulatory compliance, and policy implementation. Unwarranted revocation or potential refusal to appoint, disrupts agency operations and diminishes the efficiency and effectiveness of our work.

### ***Safeguarding Against Unwarranted Revocation***

The bill protects against the arbitrary dismissal of qualified legal counsel. It ensures that legal advisors can offer candid and objective guidance without the concern of political interference. This is critical for sound, transparent, and independent agency decision-making.

While the Attorney General is rightly recognized as the state's chief legal officer, attorneys employed within executive agencies serve a fundamentally different role—as trusted legal advisors to their respective agency heads. At the Insurance Department, for example, our attorneys provide counsel on complex and specialized matters such as enforcement actions, rulemaking, regulatory compliance, and administrative proceedings. Their work is deeply aligned with the Department's mission and strategic priorities and is directed solely by the Insurance Commissioner.

House Bill 1601 corrects a structural flaw that allows for divided accountability—whereby an attorney employed by one constitutional officer could be dismissed at the discretion of another. This creates a dynamic of dual loyalty that undermines the clarity and independence essential to good governance. By eliminating this discretionary revocation power, the bill ensures that attorneys serving in the Department are fully and appropriately accountable to the Insurance Commissioner—and to no one else.

Furthermore, as a special-funded agency, the Insurance Department is required to pay the Attorney General's office for any legal services it provides. These are not free or assumed entitlements—they are transactional relationships, mandated by our laws and budgeting process. This reality underscores the need for independent, in-house counsel who are deeply familiar with our operations, priorities, and statutory responsibilities.

House Bill 1601 reinforces this existing client-attorney framework by ensuring that attorneys who are employed by, and serve at the direction of, constitutional officers cannot be unilaterally removed by another constitutional office. As it stands today, the Attorney General's office could both bill us for legal services and revoke the appointment of one of our own attorneys—you can see the potential for issues and conflict, this bill rightly resolves that issue.

At its core, this bill promotes one of the most fundamental principles of legal ethics: undivided loyalty to the client. Attorneys within the Insurance Department should be accountable solely to the Insurance Commissioner—the office they serve—not subject to the control of a separate, potentially conflicting authority.

The amended bill affirms this principle by removing unnecessary layers of discretionary control and reinforcing the checks and balances foundational to North Dakota's government structure.

House Bill 1601, as amended, appropriately balances the authority of the Attorney General with the operational needs of other constitutional officers. It promotes efficiency, protects independence, and ensures legal counsel is appointed based on qualifications and merit and removes any possibility that politics or personalities would enter into the discussion.

I thank the committee for its time and respectfully urge your favorable consideration of House Bill 1601. I am happy to answer any questions you may have.