

2025 SENATE APPROPRIATIONS

SB 2004

**DEPARTMENT 195 - ETHICS COMMISSION
2025-27 BASE-LEVEL BUDGET**

Base Budget - Summary

| | |
|--------------------------------------|--------------------------|
| | <u>Base Level</u> |
| Ethics Commission | <u>\$1,041,374</u> |
| Total general fund | \$1,041,374 |
| Full-time equivalent (FTE) positions | 3.00 |

Selected Base Budget Information

| | General Fund | Other Funds | Total |
|---|-------------------------|------------------------|--------------|
| 1. Includes funding for salaries and wages, including \$50,000 for temporary salaries | \$827,353 | \$0 | \$827,353 |
| 2. Includes funding for operating expenses, including \$52,416 for office lease costs and \$48,939 for information technology costs | \$164,021 | \$0 | \$164,021 |
| 3. Includes contingency funding for professional fee costs | \$50,000 | \$0 | \$50,000 |

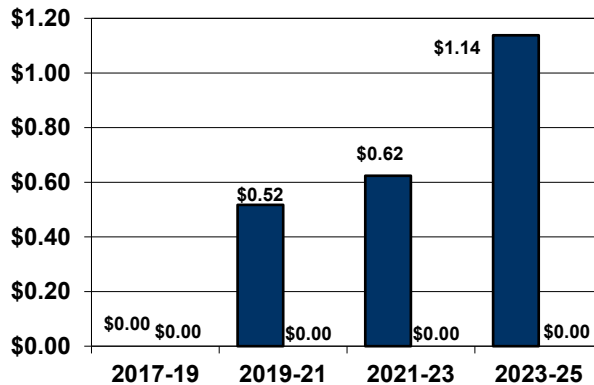
Continuing Appropriations

There are no continuing appropriations for this agency.

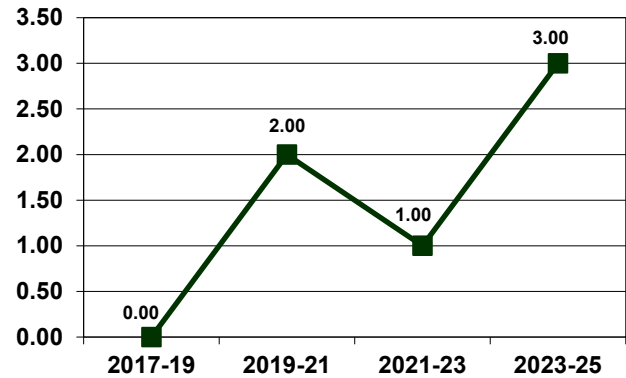
Historical Appropriations Information

Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



■ General Fund □ Other Funds

Ongoing General Fund Appropriations

| | 2015-17 | 2017-19 | 2019-21 | 2021-23 | 2023-25 |
|---|---------|---------|-----------|-----------|-------------|
| Ongoing general fund appropriations | \$0 | \$0 | \$517,155 | \$623,984 | \$1,041,374 |
| Increase (decrease) from previous biennium | N/A | N/A | N/A | \$106,829 | \$417,390 |
| Percentage increase (decrease) from previous biennium | N/A | N/A | N/A | 20.7% | 66.9% |
| Cumulative percentage increase (decrease) from 2015-17 biennium | N/A | N/A | N/A | N/A | N/A |

Major Increases (Decreases) in Ongoing General Fund Appropriations

2019-21 Biennium

- Added funding and 2 FTE positions to create the Ethics Commission \$517,155

2021-23 Biennium

- Reduced funding for operating expenses (\$25,858)
- Removed a vacant FTE position \$0

2023-25 Biennium

- Added an education and training FTE position \$266,318
- Converted a temporary position to an FTE executive assistant position \$60,798
- Increased funding for temporary salaries \$50,000
- Added professional fees contingency funding \$50,000

One-Time General Fund Appropriations

| | 2015-17 | 2017-19 | 2019-21 | 2021-23 | 2023-25 |
|--------------------------------------|---------|---------|---------|---------|----------|
| One-time general fund appropriations | \$0 | \$0 | \$0 | \$0 | \$98,825 |

Major One-Time General Fund Appropriations

2019-21 Biennium

None

2021-23 Biennium

None

2023-25 Biennium

- Added one-time funding for professional fees \$72,000
- Added one-time funding for office relocation costs \$25,000



**Ethics Commission
Department No. 195
2025 Senate Bill No. 2004**

**EXECUTIVE BUDGET RECOMMENDATION
2025-27 BIENNIUM**

Budget Summary

| | FTE Positions | General Fund | Other Funds | Total |
|---------------------------------|----------------------|---------------------|--------------------|------------------|
| Executive budget recommendation | 3.00 | \$1,500,699 | \$0 | \$1,500,699 |
| Base level | 3.00 | 1,041,374 | 0 | 1,041,374 |
| Increase (decrease) | 0.00 | \$459,325 | \$0 | \$459,325 |
| Percentage increase (decrease) | 0.0% | 44.1% | N/A | 44.1% |

NOTE:

More detailed information on the executive budget recommendation is attached as Appendix A.

A copy of the draft appropriations bill reflecting the executive budget recommendation is attached as Appendix B.

Selected Highlights

- Salary increases of up to 4 percent effective July 1, 2025, and 3 percent effective July 1, 2026
- Health insurance increase of \$250 per month (15.23 percent), from \$1,643 to \$1,893, per employee
- Adds funding to replace 2023-25 biennium new and vacant FTE pool amounts
- Increases funding from the general fund for ongoing information technology (IT) costs (\$8,713) and IT software and subscriptions (\$19,151)
- Increases general fund support for commissioner and temporary salary funding by \$43,403
- Adds ongoing (\$60,000) and one-time (\$135,000) funding from the general fund for a case management system
- Increases funding from the general fund for professional fees by \$50,000 to provide a total of \$120,000

Deficiency Appropriations

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Agency Fees

As reported to the Legislative Management, pursuant to North Dakota Century Code Section 54-35-27, this agency has 2 fees. The agency did not recommend any changes to the fees.

Major Related Legislation

House Bill No. 1046 - Ethics Commission advisory opinions - Allows a public official, candidate, or lobbyist to request an advisory opinion related to hypothetical facts or prospective conduct of the individual.

NOTE:

Please see the Fiscal Impact Report for additional information regarding bills under consideration which contain either a state revenue impact, an appropriation, or a state fiscal impact.



Ethics Commission - Budget No. 195

Agency Worksheet - Senate Bill No. 2004

| | Executive Budget | | | |
|--|------------------|--------------------|-------------|--------------------|
| | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 |
| 2025-27 Ongoing Funding Changes | | | | |
| Salary increase | | \$43,027 | | \$43,027 |
| Health insurance increase | | 18,016 | | 18,016 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 |
| IT rate increases | | 8,713 | | 8,713 |
| IT software and subscriptions | | 19,151 | | 19,151 |
| Case management system | | 60,000 | | 60,000 |
| Professional fees | | 50,000 | | 50,000 |
| Travel costs | | 7,760 | | 7,760 |
| Total ongoing funding changes | 0.00 | \$321,977 | \$0 | \$321,977 |
| One-Time Funding Items | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 |
| Office furniture | | 2,348 | | 2,348 |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 |
| Total Changes to Base Level Funding | 0.00 | \$459,325 | \$0 | \$459,325 |
| 2025-27 Total Funding | 3.00 | \$1,500,699 | \$0 | \$1,500,699 |

Federal funds included in other funds

\$0

Total ongoing changes - Percentage of base level

0.0%

30.9%

N/A

30.9%

Total changes - Percentage of base level

0.0%

44.1%

N/A

44.1%

Other Sections in Ethics Commission - Budget No. 195

| Section Description | Executive Budget |
|---------------------|--|
| FTE positions | Section 3 would allow the Ethics Commission to increase or decrease the number of authorized FTE positions subject to the availability of funds. |

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2004
(Governor's Recommendation)

Introduced by

Appropriations Committee

(At the request of the Governor)

A bill for an act to provide an appropriation for defraying the expenses of the ethics commission and to provide an exemption.

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 that agency, for the biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

| | <u>Base Level</u> | <u>Adjustments or Enhancements</u> | <u>Appropriation</u> |
|--------------------------------|-------------------|--|----------------------|
| Ethics commission | \$ 1,041,374 | \$ 459,325 | \$1,500,699 |
| Total general fund | \$ 1,041,374 | \$ 459,325 | \$1,500,699 |
| Full-time equivalent positions | 3.00 | 0.00 | 3.00 |

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-eighth legislative assembly for the 2023-25 biennium and the 2025-27 biennium one-time funding items included in the appropriation in section 1 of this Act:

| <u>One-Time Funding Description</u> | <u>2023-25</u> | <u>2025-27</u> |
|-------------------------------------|----------------|----------------|
| Attorney fees | \$72,000 | \$0 |
| Office relocation | 25,000 | 0 |
| New FTE position one-time costs | 1,825 | 0 |
| Case management system | 0 | 135,000 |
| Office furniture | 0 | 2,348 |
| Total general fund | \$98,825 | \$137,348 |

SECTION 3. EXEMPTION - FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. Notwithstanding any other provisions of law, the ethics commission may increase or decrease authorized full-time equivalent positions as needed, subject to availability of funds, during the biennium beginning July 1, 2025, and ending June 30, 2027. The ethics commission shall report to the office of management and budget and legislative council any adjustments made pursuant to this section.



**Ethics Commission
Department No. 195
2025 Senate Bill No. 2004**

**REVISED EXECUTIVE BUDGET RECOMMENDATION
2025-27 BIENNIUM**

Budget Summary

| | FTE Positions | General Fund | Other Funds | Total |
|--|----------------------|---------------------|--------------------|--------------------|
| Burgum budget recommendation | 3.00 | \$1,500,699 | \$0 | \$1,500,699 |
| Revisions - Increase (decrease) | 0.00 | (7,859) | 0 | (7,859) |
| Armstrong budget recommendation | 3.00 | \$1,492,840 | \$0 | \$1,492,840 |
| Base level | 3.00 | 1,041,374 | 0 | 1,041,374 |
| Increase (decrease) | 0.00 | \$451,466 | \$0 | \$451,466 |
| Percentage increase (decrease) | 0.0% | 43.4% | N/A | 43.4% |

NOTE:

More detailed information on the revised executive budget recommendation is attached as an appendix.

Selected Highlights

- **Salary increases of up to 3 percent effective July 1, 2025, and 3 percent effective July 1, 2026**
- Health insurance increase of \$250 per month (15.23 percent), from \$1,643 to \$1,893, per employee
- Adds funding to replace 2023-25 biennium new and vacant FTE pool amounts
- Increases funding from the general fund for ongoing information technology (IT) costs (\$8,713) and IT software and subscriptions (\$19,151)
- Increases general fund support for commissioner and temporary salary funding by \$43,403
- Adds ongoing (\$60,000) and one-time (\$135,000) funding from the general fund for a case management system
- Increases funding from the general fund for professional fees by \$50,000 to provide a total of \$120,000

Deficiency Appropriations

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Agency Fees

As reported to the Legislative Management, pursuant to North Dakota Century Code Section 54 35 27, this agency has 2 fees. The agency did not recommend any changes to the fees.

Major Related Legislation

As of the date of this report, there is no major related legislation for this agency.

NOTE:

Please see the Fiscal Impact Report for additional information regarding bills under consideration which contain either a state revenue impact, an appropriation, or a state fiscal impact.



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

| | Armstrong Executive Budget | | | |
|--|----------------------------|--------------------|-------------|--------------------|
| | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 |
| 2025-27 Ongoing Funding Changes | | | | |
| Salary increase | | \$35,168 | | \$35,168 |
| Health insurance increase | | 18,016 | | 18,016 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 |
| IT rate increases | | 8,713 | | 8,713 |
| IT software and subscriptions | | 19,151 | | 19,151 |
| Case management system | | 60,000 | | 60,000 |
| Professional fees | | 50,000 | | 50,000 |
| Travel costs | | 7,760 | | 7,760 |
| Total ongoing funding changes | 0.00 | \$314,118 | \$0 | \$314,118 |
| One-Time Funding Items | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 |
| Office furniture | | 2,348 | | 2,348 |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 |
| Total Changes to Base Level Funding | 0.00 | \$451,466 | \$0 | \$451,466 |
| 2025-27 Total Funding | 3.00 | \$1,492,840 | \$0 | \$1,492,840 |
| Federal funds included in other funds | | | \$0 | |
| Total ongoing changes - Percentage of base level | 0.0% | 30.2% | N/A | 30.2% |
| Total changes - Percentage of base level | 0.0% | 43.4% | N/A | 43.4% |

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004
1/14/2025

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

9:59 a.m. Chairman Dever called the meeting to order.

10:08 a.m. Roll Call

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum, and Mathern

Discussion Topics:

- EC mission and purpose
- Legislative proposals affecting commission budget
- ND Ethics Commission Strategic Plan
- Strategic initiatives & accomplishments
- 2023-2025 budget overview
- 2025-2027 budget request

10:09 a.m. Chairman Dever introduced SB 2004.

10:10 a.m. Rebecca Binstock, Executive Director, ND Ethics Commission testified and submitted testimony in favor #28945 & #28946.

10:53 a.m. Stephanie Johnson, OMB, Fiscal Analyst, testified neutral.

11:08 a.m. Sheila Sandness, LC, Senior Fiscal Analyst testified neutral.

11:11 a.m. Alisha Maier, Operations Administrator, ND Ethics Commission, testified neutral.

11:50 a.m. Chairman Dever adjourned the meeting on SB 2004.

Joan Bares, Committee Clerk

North Dakota Ethics Commission
Senate Bill 2004
Testimony presented by
Executive Director, Rebecca Binstock
Before the Senate Appropriations – Human Services Division
January 14, 2025

I. Agency Purpose & History

Good morning, Mr. Chairman and Committee members, my name is Rebecca Binstock. I have the privilege of serving as the Executive Director of the North Dakota Ethics Commission.

The Ethics Commission was established as an independent constitutional entity in 2018. The Commission consists of five Commissioners, four of which were appointed September 1, 2019, and have since been reappointed. The newest Commissioner was appointed on October 1, 2024, with the retirement of then-Chair, Paul Richard.

Commission members are:

- Chair David Anderson (Bismarck)
- Vice-Chair Ward Koeser (Williston)
- Ron Goodman (Oakes)
- Dr. Cynthia Lindquist (Grand Forks)
- Murray Sagsveen (Bismarck)

Commissioners are appointed upon consensus agreement of the Governor, Senate Majority Leader, and Senate Minority Leader. The Commission staff consists of Executive Director, General Counsel, and Operations Administrator. We have attached an organizational chart for your reference (**Attachment No. 1**).

As we discuss the current operations and budget requests of the Commission, a brief overview of the Ethics Commission's operational history up to the current biennium is helpful to understand where the Commission stands today and its future objectives.

- | | |
|-----------------------|---|
| • November 2018: | Commission was created by voters |
| • January – May 2019: | Legislative assembly implements Article XIV |
| • September 2019: | Commissioners appointed for staggered terms |

- September 12, 2019: First Ethics Commission Meeting
- January 2020: Hiring of Executive Director
- June 17, 2020: Complaint Rule Adopted
- October 6, 2020: Lobbyist Gifting Rule Adopted
- January – May 2021: Advisory Opinion Legislation Enacted
- June 23, 2022: Quasi-Judicial Bias Rule Adopted
- October 2022: Hiring of successor Executive Director
- October 19, 2022: Conflicts of Interest Rule Adopted
- November 2022: Commission vacates privately leased office space
- Oct - Nov 2022: Complaint filings increase exponentially.
- January – May 2023: Additions of Executive Assistant & General Counsel
- July 2023: Commission relocates to State Capitol
- September 2023: Hiring of General Counsel & Executive Assistant

Article XIV of the North Dakota Constitution gives the Commission its duties and scope of authority. Article XIV outlines two directives of the Commission: (1) to adopt ethics rules related to transparency, corruption, elections, and lobbying; and (2) investigate alleged violations of Article XIV of the Constitution chapter 54-66 of the North Dakota Century Code, and other state laws related to transparency, corruption, elections, and lobbying. The operations of the Commission are further governed by North Dakota Century Code Chapter 54-66. The mission of the North Dakota Ethics Commission is to strengthen the confidence of the citizens of North Dakota in their Government by ensuring and promoting transparency and accountability. To meet its mission, the Commission focuses on providing education and training to help individuals manage ethical concerns.

II. Agency Update

To fulfill its constitutional duties and meet its mission, in October 2023, the Commission adopted a strategic plan for the 2023 – 2025 biennium, consisting of 5 strategic initiatives. **(Attachment No. 2)**. These strategic initiatives collectively integrate to create an overarching plan which was practically implemented to enable the Commission to promote transparency and accountability in state government. These strategic initiatives are also the foundation for the Commission’s goals for the 2025-2027 biennium.

The Commission’s Strategic Plan for the 2023-2025 biennium consists of the following strategic initiatives: (1) Education and Outreach, (2) Relationships & Communications, (3) Rules Review & Creation, (4) Positive Work Culture, and (5) Meaningful Enforcement. Reviewing the Commission’s outcomes and accomplishments through this past biennium is best understood through examining these strategic initiatives:

1. Education and Outreach

- a. The goal of this initiative is to provide tailored education and practical training on Commission adopted rules, Article XIV of the North Dakota Constitution, and N.D.C.C. ch. 54-66 to the regulated community as well as the residents of North Dakota.
- b. From January 1, 2024 to December 31, 2024, Commission staff conducted **28** educational and/or training presentations, which were attended by an estimated **1,000** North Dakota residents.
- c. The most notable of these educational and training presentations was the Commission's Dakota Dilemmas Webinar Series. The first webinar, "Dakota Dilemmas: A Historical Exploration of Ethical Conflicts" was produced and hosted online on March 14, 2024, and attended by 171 individuals. This webinar was 1.5 hours in length and explored how legislation, statutory initiatives, trips to the North Dakota Supreme Court, and constitutional amendments transformed ethics laws in the state over its history.

The second webinar, "Dakota Dilemmas: A Practical Application of Conflict Rules" was produced and hosted online on April 23, 2024, and attended by 158 individuals. This webinar was 1.5 hours in length and walked through the Commission's rules and offered a step-by-step approach for officials to navigate disclosing and managing potential conflicts.

The third webinar, "Dakota Dilemmas: Navigating the Complaint Process" was produced and hosted online on June 25, 2024, and attended by 124 individuals. This webinar was 1 hour in length and illustrated the steps in the complaint process and highlighted the roles the complainant, the respondent, and the Ethics Commission each have along the way.

The fourth webinar, "Dakota Dilemmas: Lobbyist Gifting – Naughty or Nice?" was produced and hosted online on December 12, 2024, and attended by 119 individuals. The webinar was 1 hour in length and discussed the gifting prohibition in Article XIV of the Constitution and the Commission-created exceptions to the prohibition.

The Commission offered continuing education credits to lawyers, paralegals, and accountants for attendance at the Dakota Dilemmas webinars.

2. Relationships & Communications

- a. The goal of this initiative is to establish open lines of communication with individuals subject to Commission oversight and the public through various mediums and communication channels. Additionally, the additional goal is to create meaningful opportunities for individuals subject to Commission oversight to explore the practical implications of Commission-established rules. Prior to mid-2023 very few communications channels existed from the Commission to the regulated community and North Dakota citizens.
- b. Commission created a quarterly newsletter: *Prairie Principles*. *Prairie Principles* provides up-to-date information regarding proposed ethics rules, advisory opinions, educational opportunities, and meeting minutes. The *Prairie Principles* Newsletter was first distributed on July 31, 2024, and rolls out quarterly. It is distributed through the Commission's distribution list.
- c. Commission located, categorized, and created distribution lists, organized by stakeholder classification (i.e. members of the public, elected officials, appointed officials, legislative employees, points of contacts for boards and commissions, and registered lobbyists) to provide communication to stakeholders and the regulated community.
- d. Commission created a Facebook page and YouTube Channel in September 2023 to engage with North Dakotans through social media. The Commission creates its own content and manages these pages internally. We are able to share information about upcoming meetings, educational opportunities, and general information.
- e. The Commission's website was also overhauled, starting with updates in October 2023. The website has been re-organized, contains new educational information, links to social media and videos, and allows members of the public to provide direct input on ethics rules to the Commission through the website.

3. Rules Review & Adoption

- a. The goal of this initiative is to conduct a thorough review of potential rules for adoption as well as enacted laws to align North Dakota ethics laws with national standards and caselaw.
- b. The Commission has been working on two major rule adoptions throughout 2024: rules related to travel disclosures and financial disclosures for public

officials. The goal of these rules is to increase transparency through disclosure in those areas. The Commission has draft rules in these areas ready for the rulemaking process. Commission staff also began preliminary research on campaign finance and disclosure rules.

- c. The Commission directed general counsel to conduct a review of rules already implemented and rules to be implemented to get North Dakota ethics laws up to date with national standards and case law. Upon commencing this process, Commission staff proposed a two-step process to address rule adoption: (1) fixing the flaws in the complaint process and then (2) a wholistic adoption of rules related to transparency, corruption, elections, and lobbying.
- d. The Commission adopted this two-step process and commenced work on amending the complaint process that shifts to be more proactive, resolve issues sooner, and reduce the exploitation of the process. This work resulted in proposed legislation to be introduced.

4. Positive Work Culture

- a. The goal of this initiative is to welcome and provide quality internal training to new staff and commissioners, to support the continuing education of staff and commissioners, and implement strategies that promote creativity, empowerment, engagement, and value in staff and commissioners.
- b. In September 2023, the Commission filled the two (2) FTE positions, hiring both a General Counsel and Executive Assistant. A General Counsel was selected from 23 applicants. An Executive Assistant was selected from 22 applicants. Applicants for both positions were from state agencies and private sectors.
- c. In mid-2024, the Executive Assistant position was reclassified to an Operations Administrator position as the role evolved to include additional duties, including social media and website management, budget management, and record retention management, as well as an increase in overall workload with increasing filings.
- d. In September 2024, Chair Paul Richard retired from the Commission. Commissioner Murray Sagsveen was appointed on October 1, 2024, upon consensus agreement of the governor, senate majority leader, and senate minority leader. Commissioner Sagsveen was selected from 29 applicants.

- e. The Commission partnered with UND School of Law to host a legislative legal intern for the 2025 legislative session.
- f. There were no vacant positions and zero staff turnover during the 2023-2025 biennium.

5. Meaningful Enforcement

- a. Prior to October 2022, all but one complaint filed with the Commission had been summarily dismissed. As complaints ticked up in late 2022, the Commission created an internal processing systems and standardized communications related to the complaint process.
- b. In 2024, the Commission, in partnership with NDIT, completed the transition of the Commission's paper forms to online forms, submittable through the Commission's website.
- c. The Commission has timely summarily dismissed complaints when appropriate. The Commission currently has approximately 31 complaints pending. However, Commission staff identified bottlenecks in the complaint process that significantly delay complaint resolution.
- d. Despite those bottlenecks, Commission staff has made significant strides in complaint investigations.
- e. The Commission expects to wrap-up several investigations in Q1/Q2 of 2025.

III. Current Budget Status

The 2023-25 biennial budget for the Ethics Commission is \$1,213,469 in general funds, including \$98,825 in one-time funding. This one-time funding included \$25,000 to remodel the Commission's office space when it moved into the capitol, \$72,000 one-time professional fees related to complaints, and \$1,825 New FTE IT. The Commission is a general funded agency and does not receive federal or special funding. As of December 31, 2024, the Commission has spent \$851,450 with a remaining balance of \$362,019. The Commission expects a turn back of approximately \$15,000 to the general fund at the end of the biennium.

For the Commission's 2023-2025 budget, the legislature appropriated 2 new FTE positions. \$260,304 of funds were appropriated for the general counsel position, with the projected total cost of \$266,092 for the 2023-2025 biennium. \$174,934 (before FTE

& Vacant Funding Pool Removal) of funds were appropriated for the executive assistant position, with the projected total costs of \$181,204.

The Commission did not have any vacant position savings for the 2023-2025 biennium. \$60,798 of funds was transferred from the OMB new and vacancy pool in October 2023. The General Counsel FTE position was not included in OMB's new/vacancy funding pool. The Commission will request the additional \$11,109 from the pool in March 2025.

To date, the Commission has had one audit - with no formal audit findings. A current budget update as of December 31, 2024, is attached (**Attachment No. 3**). Although the Commission's budget is a single budget line, there is a detailed listing of our expenditures included.

IV. 2025-2027 Budget Request

The Commission is seeking a total of \$1,801,120 with four (4) FTEs to adequately fund the Commission for the 2025-2027 biennium.

The Ethics Commission's base budget for the 2025-27 biennium is \$1,041,374 with three (3) FTEs. Our OMB adjusted base budget for 2025-27 is \$1,121,994 which includes OMB's adjustment to the base of \$80,620 that included restored amounts for new and vacant FTE pool and an increase for NDIT rates.

The adjusted base budget was submitted with an additional request of \$679,126 and one (1) additional FTE. **Attachment No. 4** shows the Commission's requested base budget along with the additional optional requests for a total request of \$1,801,120 and four (4) FTEs. The Ethics Commission is requesting nine (9) additions to the OMB adjusted base budget.

Additional requests to the adjusted base budget:

- (1) \$278,922 for an FTE as an education & communications administrator;
- (2) \$195,000 for a case management system;
- (3) \$50,000 for rules implementation;
- (4) \$50,000 for additional professional fees;
- (5) \$43,403 for commissioner and temporary salaries;
- (6) \$32,542 for workload increases;
- (7) \$19,151 for additional IT software and subscriptions;
- (8) \$7,760 for increased travel expenses; and
- (9) \$2,348 for furniture.

The Executive Recommendation included three (3) FTEs and additional request Nos. 2, 4, 5, 7, 8, and 9. It also included additional funding of \$61,043 for the proposed executive salary package. The following is an itemized description and justification for optional budget items requested by the Commission:

- a. **Education & Communications Administrator FTE – \$278,922** (\$184,320 salary, \$78,312 benefits, \$10,979 IT costs, \$2,599 office equipment, and \$2,712 travel) The Education Administrator (Grade 106) will develop educational materials/curriculum in light of the Ethics Commission's and this Assembly's educational goals to help stakeholders better understand the role of the Ethics Commission. This position will develop methods and tools to effectively communicate the Ethics Commission's educational goals.

To meet its constitutional directive and best support an open, ethical, and accountable government in North Dakota, individuals (including citizens, state employees, and those who lobby in the State) need to be knowledgeable about the ethical rules in place in North Dakota's Constitution, statutes, and rules.

This FTE will develop and implement the Commission's preventative, educational initiative aimed at: (1) educating citizens of North Dakota so they can be knowledgeable about the role of the Ethics Commission, (2) effectively communicating with the citizens of North Dakota so they can understand how the ethical rules in the Constitution, statutes, and rules function, and (3) training individuals subject to the Ethics Commission's oversight how to fully comply with the rules. This role is critical to the Ethics Commission's role in supporting an open, ethical, and accountable government. Our request includes funding for four trips to various locations around the state.

An Education & Communications Administrator is also critical as legislative turn-over increases and tenure shortens with the passage of Article XV (Term Limits) of the North Dakota Constitution. There will be a high demand to provide comprehensive education about ethics rules and issues, how to manage potential conflicts of interest, and proactively addressing concerns or issues.

During the last legislative session, in response to the Commission's request for an educational coordinator, the Legislative Assembly recognized the need for preventative education, training, and guidance. As a result, the general counsel FTE position was created with the intent the position would provide legal services to the Commission and simultaneously support the development and maintenance of a robust education and training program (33% of job duties). The

executive director FTE position also provides substantial support to the Commission's educational and communication program (approximately 33% of job duties).

Based upon increasing filings, the Commission needs to shift its current resources to have the general counsel position allocate more attorney time to legal issues, including enforcement actions, advisory opinion drafting, Commission rules, informal guidance, and counsel to the Commission. Additionally, this would shift the executive director's duties to focus on implementation of the strategic plan, including wholistic approach to rules adoption.

- b. **Case Management System - \$195,000** (\$135,000 one-time, \$60,000 ongoing) The Commission has had a steady increase of filings since the end of 2022. As the Commission adopts new rules, filings will increase as individuals comply with the Commission's rules. Currently, Commission staff manage filings, documents received, and its investigations through SharePoint with manual entry and manual tracking. This process is inefficient and prone to human error. Whereas this process could be automated and managed through a software platform, allowing our team to focus on customer contacts.

After a review of state procurement contract 38 and discussions with other ethics commissions, we believe initial costs of \$135,000 plus a \$30,000 annual maintenance/support fee is a worst-case scenario cost to procure and maintain a case management system. There is currently an RFP for a state contract for case/licensee management for boards and commissions. A demonstration is scheduled in the coming weeks and this amount may be modified during legislative session.

- c. **Rules Implementation - \$50,000** Administrative agencies that adopt rules are doing so based upon legislative directive. The authority for administrative agencies to adopt rules stems from legislative authority. This is distinct from the Ethics Commission—the Commission's rulemaking authority is directed from the constitution—not the legislative assembly.

The funding to support rules to be adopted by administrative agencies is included in the agency's budget because the direction is coming from the legislature. Therefore, by the time the agency is presenting rules for adoption to the Administrative Rules Committee, the funding is already available for the administrative agency to implement the rule(s). For the Ethics Commission, its rules are adopted pursuant to its independent, constitutional authority. To date,

the only funding for rules adoption included in Commission budgets are the costs associated with publication of the notices for rulemaking.

Previous Commission-adopted rules did not require additional funds to implement and enforce. However, the same will not be the case for the rule being considered by the Commission or future rules the Commission may consider. Rules currently under consideration will require additional professional services as well as IT solutions. Therefore, the Commission is requesting \$50,000 in funds to implement Commission adopted rules. The funds should be used for rule implementation only.

- d. **Additional Professional Fees - \$50,000** The Commission has spent an average of approximately \$4,500/month for professional services since May 2023. Extrapolating those monthly costs over 24 months in the next biennium equates to approximately \$108,000 in professional services fees for the next biennium.

The amount included in the base budget is \$70,000, so there is a need for additional funds. Since there is also the possibility the Commission could be involved in litigation, we rounded up to \$120,000 less the \$70,000 included in the base budget.

- e. **Commissioner & Temporary Salaries - \$43,403**

Intern Salaries:

Beginning legislative session 2025, the Commission will host an intern to assist in the Commission's legislative work as well as provide a UND law student an opportunity to learn about North Dakota legislative process and North Dakota government functions. For the 2025 legislative session, the Ethics Commission will receive funds through OMB's Internship Program to cover 75% of the salary costs.

As the Commission moves forward, internships will be a critical component of the Commission's workforce as the Commission has minimal staff (3) and an increasing workload. The Commission plans to offer both a summer and legislative internship experience for law students. The Commission is requesting funds to support those internships in the amount of \$28,484 in salaries and benefits (FICA).

Overtime Compensation:

With the addition of an operations administrator position in 2023, the Commission is required to comply with the Fair Labor Standards Act (FLSA), which requires the operations administrator be paid compensation for overtime. The Commission adopted an Overtime Compensation Policy in accordance with the FLSA which will require funds of \$4,778 for overtime hours during the 2025-2027 biennium.

Commissioner Salaries:

The Commission is requesting additional funds to cover salaries for Commissioners. This increase is for two reasons: (1) The Commission is holding regular monthly meetings as well as special meetings, and (2) the rate of compensation for Commissioners under N.D.C.C. §§ 54-66-04 and 54-35-10 will be increasing during the next biennium.

The Commission's 2023-2025 budget includes \$27,290 for commissioner salaries. This calculation includes compensation for regular meetings only. However, since September 2022, the Commission held 20 special meetings. Prior to September 2022, the Commission only held 2 special meetings. Funds of \$7,428 cover commissioner salaries and benefits (FICA) for 12 additional special meetings per biennium, which is better aligned to the data from the previous 3 years.

Pursuant to N.D.C.C. § 54-66-04, Commissioners are entitled to compensation for each day necessarily spent conducting commission business in the amount provided for members of the legislative management under N.D.C.C. § 54-35-10. The compensation in N.D.C.C. § 54-35-10 will likely be increasing based upon historical data. Funds of \$2,713 cover commissioner salary increases for 24 regular meetings.

- f. **Workload Increases - \$32,542** The Commission has identified an additional \$20,208 in salaries and \$4,226 in fringe benefits to cover a salary increase for the operations administrator as a result of workload increases. In mid-2024, the Commission's executive assistant position was reclassified from grade 104 to grade 105 based upon a review of the job description and additional job duties performed. Based upon that review, HRMS reclassified the position, and the Commission assigned a new title—Operations Administrator. At that time, a pay increase did not happen because of limited agency funds. The operations administrator received a small workload increase in September 2024, when the position had been filled for 1 year. However, this workload increase was insufficient to account for the proportion of workload increase that occurred since

2023. In the 2025-2027 biennium, the Commission anticipates a sufficient workload increase to this position's salary.

The Commission has identified an additional \$6,762 in salaries and \$1,346 in fringe benefits to cover a salary increase for the executive director as a result of workload increases. The executive director position now oversees two full-time team members and leads the Commission's educational initiative.

- g. **Additional IT Software & Subscriptions - \$19,151** With the addition of a general counsel position, the Commission was required to procure a legal research subscription. The Commission's Westlaw subscription for the 2025-2027 costs \$7,251.

There are also additional IT costs associated with hosting interns in the Commission's office in the amount of \$3,007.

With Commission turnover this biennium, and since the previous Commissioner was not using a state computer, the Commission needed to add a state computer user. The desktop support service laptop fee for an additional laptop is \$2,700. This laptop fee only applies when the Commission adds a hardware user, not when there is a change of commissioners.

The cost of JotForm software will be paid by agencies during the 2025-2027 biennium instead of paid by NDI. The cost for JotForm is \$2,088.

In addition, the Commission has a shortage of \$4,105 for projected IT costs. The Commission's projected estimate for IT services is \$4,105 more than the estimate received from NDI and OMB.

- h. **Increased Travel Costs - \$7,760** The Commission has been holding most of its monthly meetings as well as special meetings via Teams since the Spring of 2020. Although, under the circumstances it has worked well, the Commission would like to increase regular monthly meetings to an in-person meeting at least twice a year.

The Commission is a member of the Council on Government Ethics Laws (COGEL) which holds an annual convention each year. This provides our Commissioners with best practices by networking with colleagues throughout the United States. The Commission's goal is to send three Commissioners or staff to this event each year of the biennium.

- i. **Furniture - \$2,348** The Commission has identified a total requirement of \$2,348 for office furniture with \$1,073 for a privacy addition to our reception desk and \$1,275 for an additional storage cabinet.

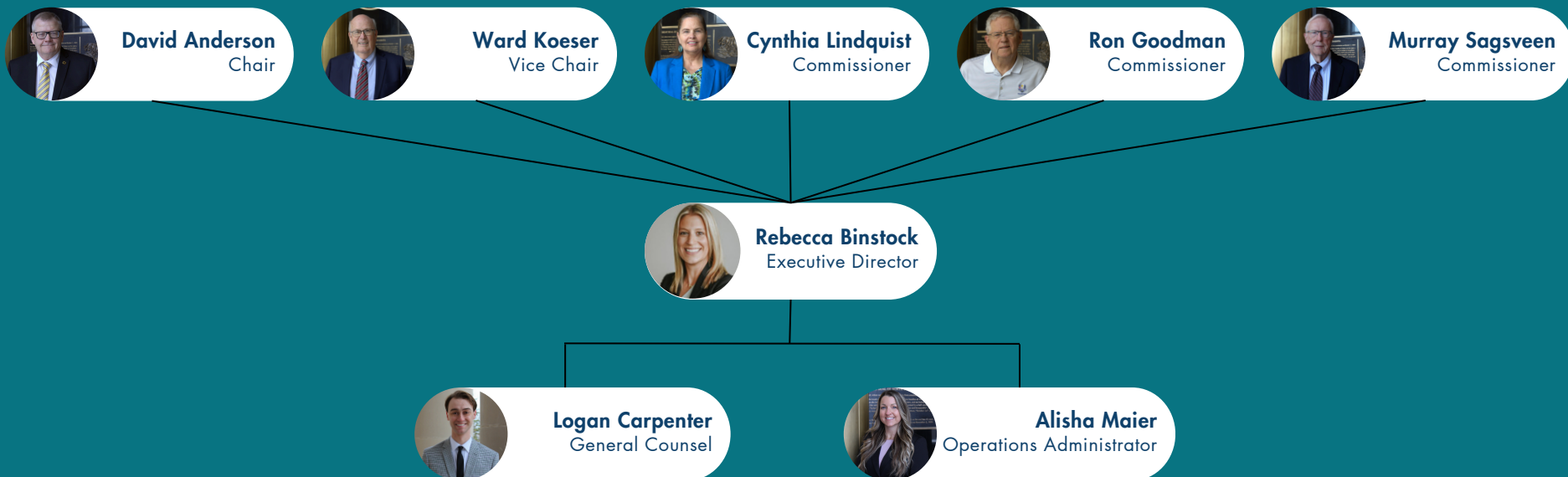
V. Legislative Proposals Affecting Commission Budget

- a. As referenced earlier, the Commission has been working on a bill that changes the Commission's complaint process. As it considers budget additions, the Commission took the changes presented in that bill into consideration. The funding and resources outlined above allow the Commission to implement that bill effectively and efficiently.
- b. HB 1146, pre-filed by the Commission, allows the Commission to issue advisory opinions on its own initiative. If implemented, the Commission expects an increase in attorney work to draft advisory opinions. Nonetheless, with the shift in resources with an additional Education & Communication FTE, the Commission is confident the general counsel position can adequately handle the increased workload from that bill.
- c. HB 1141, introduced last week, affects the duties of the Commission and may impact its workload. Any workload increases because of this bill was not considered in the additional requests. The Commission is evaluating the workload impact of this bill if passed.

Mr. Chairman, that concludes my testimony. I will gladly stand for any questions you may have.

NORTH DAKOTA ETHICS COMMISSION

Organizational Chart



North Dakota Ethics Commission Strategic Plan 2023 – 2025 Biennium

The North Dakota Ethics Commission (“Commission”) was created in 2018 by the passage of a constitutional amendment which added Article XIV to the North Dakota Constitution. Article XIV tasks the Commission with supporting an open, ethical, and accountable government. The mission of the Commission is to strengthen the confidence of the citizens of North Dakota in their Government by ensuring and promoting transparency and accountability.

To fulfill its constitutional duties and meet its mission, the Commission has adopted five (5) strategic initiatives for the 2023-2025 biennium. These strategic initiatives collectively integrate to create an overarching plan which can be practically implemented to enable the Commission to ensure and promote transparency and accountability.

Strategic Initiative #1: Education & Outreach

- Provide tailored education and practical training on Commission adopted rules, Article XIV of the North Dakota Constitution, and N.D.C.C. ch. 54-66 to all individuals subject to the rules and as well as the residents of North Dakota.
- Create and distribute topical, comprehensible information to help North Dakota residents learn about the role, rules, and processes of the Commission.

Strategic Initiative #2: Relationships & Communication

- Establish open lines of communications with individuals subject to Commission oversight and the public through various mediums and communication channels.
- Create meaningful opportunities for individuals subject to Commission oversight to explore the practical implications of Commission-established rules.
- Provide timely advise to assist individuals with ethical situations related to Article XIV of the North Dakota Constitution, N.D.C.C. Ch. 54-66, and Commission-established rules.

Strategic Initiative #3: Rules Review & Creation

- Conduct a thorough review of potential rules for adoption by the Commission.
- Align North Dakota governmental ethics laws and rules with up-to-date caselaw developments.
- Review currently enacted rules to consider amendments.

- Provide legislative recommendations which increase transparency and accountability in state government.

Strategic Initiative #4: Positive Work Culture

- Welcome and provide high quality internal training to new staff and commission members.
- Support continuing education of staff and commission members.
- Implement strategies that promote creativity, empowerment, engagement, and value in Commission staff and members.

Strategic Initiative #5: Meaningful Enforcement

- Encourage consistent application of rules related to transparency, corruption, elections, and lobbying.
- Ensure the complaint process is fairly and consistently administered.
- Conduct thorough investigations of matters brought before the Commission.

ND Ethics Commission (Senate Bill 2004)
2023-2025 Budget Status as of December 31, 2024

Attachment #3

Page 1 of 2

2023 - 2025 BUDGET

| | | |
|---|-----------|------------------|
| 2023-25 Legislative Appropriation | \$ | 1,138,242 |
| FTE Funding Pool (SB 2015 Section 22) | \$ | 60,798 |
| Employer Retirement Pool (SB 2015 Section 23) | \$ | 1,957 |
| Internship Program Authority | \$ | 12,472 |
| Salaries and Benefits Additions | \$ | 75,227 |
| Total General Funds | \$ | 1,213,469 |

SUMMARIZED

| | Expenditures as of | Projected Expenditures | 2023-2025 |
|------------------------------------|---------------------------|-------------------------------------|----------------------|
| | <u>31-Dec-24</u> | <u>1-Jan-25 - 30-June-25</u> | <u>Budget</u> |
| Salaries and Benefits | | | \$ 825,349 |
| Salaries and Benefits (Additions) | | | \$ 75,227 |
| Total Salaries and Benefits | \$ 645,203 | \$ 259,371 | \$ 900,576 |
| Total Operating Expenses | \$ 206,248 | \$ 87,392 | \$ 312,893 |
| Total General Funds | \$ 851,450 | \$ 346,763 | \$ 1,213,469 |
| TOTAL AUTHORIZED FTE's | 3 | | |

ND Ethics Commission (Senate Bill 2004)
2023-2025 Budget Status as of December 31, 2024

Attachment #3

Page 2 of 2

DETAIL

| | Expenditures as of <u>31-Dec-24</u> | Projected Expenditures <u>1-Jan-25 - 30-June-25</u> | Total Projected <u>2023-2025</u> |
|--|--|--|-------------------------------------|
| Salaries and Benefits | | | |
| Salaries - Permanent | \$ 433,206 | \$ 164,549 | \$ 597,755 |
| Salaries -Other (Commissioners) | \$ 23,237 | \$ 13,620 | \$ 36,857 |
| Temporary Salaries | \$ 17,506 | \$ 17,901 | \$ 35,407 |
| Fringe Benefits (FTE) | \$ 171,253 | \$ 63,301 | \$ 234,554 |
| | \$ 645,203 | \$ 259,371 | \$ 904,574 |
| Operating Expenses | | | |
| Travel | \$ 10,144 | \$ 6,979 | \$ 17,123 |
| Supply/Material - Professional | \$ 583 | \$ 460 | \$ 1,043 |
| Miscellaneous Supplies | \$ 10 | \$ - | \$ 10 |
| Office Supplies | \$ 1,329 | \$ 1,171 | \$ 2,500 |
| Postage | \$ 221 | \$ 79 | \$ 300 |
| Printing | \$ 113 | \$ 87 | \$ 200 |
| Electrical Service | \$ 119 | \$ - | \$ 119 |
| IT Equipment under \$750 | \$ - | \$ 720 | \$ 720 |
| Insurance | \$ 317 | \$ - | \$ 317 |
| Rentals/Leases-Equip & Other | \$ 2,512 | \$ 887 | \$ 3,399 |
| Rentals/Leases - Bldg/Land | \$ 17,644 | \$ 5,731 | \$ 23,375 |
| IT - Data Processing | \$ 36,742 | \$ 15,710 | \$ 52,453 |
| IT - Communications | \$ 3,759 | \$ 1,290 | \$ 5,050 |
| Professional Development | \$ 2,868 | \$ 637 | \$ 3,505 |
| Office Equipment & Furniture | \$ 6,999 | \$ - | \$ 6,999 |
| Operating Fees and Services | \$ 5,528 | \$ 4,000 | \$ 9,528 |
| Office Move Remodel One Time - 21-23' Expenditure | \$ 25,000 | \$ - | \$ 25,000 |
| Fees - Professional Services One Time - \$20,700 was 21-23' Expenditure | \$ 72,000 | \$ - | \$ 72,000 |
| Fees - Professional Services | \$ 20,000 | \$ - | \$ 20,000 |
| Fees - Professional Services (contingency) | \$ 359 | \$ 49,641 | \$ 50,000 |
| | \$ 206,248 | \$ 87,392 | \$ 293,640 |
| Totals | \$ 851,450 | \$ 346,763 | \$ 1,198,214 |
| Total FTEs | | | 3 |
| | | Total General Funds | \$ 1,213,469 |
| | | Total Projected 2023-2025 | \$ 1,198,214 |
| | | Projected 2023-2025 Balance | \$ 15,255 |

**ND Ethics Commission - SB 2004
2025-2027 Agency Request**

Attachment #4

| SUMMARIZED | | | | | |
|------------------------------|---------------------------|---------------------------|---------------------------|-------------------------------|------------------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| Operating Expenses | \$ 312,893.00 | \$ 185,833.00 | \$ 194,546.00 | \$ 340,549.00 | \$ 535,095.00 |
| Totals | \$ 1,138,242.00 | \$ 1,041,374.00 | \$ 1,121,994.00 | \$ 679,126.00 | \$ 1,801,120.00 |
| FTEs | 3 | 3 | 3 | 1 | 4 |

(1) The OMB 2025-27 Adjusted Base Budget removed one time funding and included \$71,907 for restored New & Vacant FTE Pool and \$8,713 in NDIT rate increases.

| DETAILED | | | | | |
|---|---------------------------|---------------------------|---------------------------|-------------------------------|------------------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Salaries and Benefits | | | | | |
| Salaries - Permanent | \$ 519,587.00 | \$ 570,483.00 | \$ 642,390.00 | \$ 184,320.00 | \$ 826,710.00 |
| Salaries - Other | \$ 27,290.00 | \$ 34,426.00 | \$ 34,426.00 | \$ 42,683.00 | \$ 77,109.00 |
| Temporary Salaries | \$ 50,000.00 | \$ - | \$ - | \$ 33,262.00 | \$ 33,262.00 |
| Fringe Benefits (FTE) | \$ 228,472.00 | \$ 250,632.00 | \$ 250,632.00 | \$ 78,312.00 | \$ 328,944.00 |
| Total Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| FTE's | 3 | 3 | 3 | 1 | 4 |
| | | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Operating Expenses | | | | | |
| Travel | \$ 22,016 | \$ 22,016 | \$ 22,016 | \$ 10,472.00 | \$ 32,488.00 |
| Supplies - IT Software | \$ - | \$ - | \$ - | \$ 60,000.00 | \$ 60,000.00 |
| Professional Supplies | \$ 500 | \$ 896 | \$ 896 | \$ - | \$ 896.00 |
| Miscellaneous Supplies | \$ 500 | \$ - | \$ - | \$ - | \$ - |
| Office Supplies | \$ 2,500 | \$ 2,500 | \$ 2,500 | \$ - | \$ 2,500.00 |
| Printing | \$ 200 | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Postage | \$ - | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Electrical | \$ - | \$ - | \$ - | \$ - | \$ - |
| IT Equipment under \$5000 | \$ 2,300 | \$ 1,070 | \$ 1,070 | \$ 850.00 | \$ 1,920.00 |
| IT Equipment / Software \$5000+ | \$ - | \$ - | \$ - | \$ 135,000.00 | \$ 135,000.00 |
| Insurance | \$ 250 | \$ 403 | \$ 403 | \$ - | \$ 403.00 |
| Rentals/Leases-Equip & Other | \$ 3,552 | \$ 3,547 | \$ 3,547 | \$ - | \$ 3,547.00 |
| Rentals/Leases - Bldg/Land | \$ 52,416 | \$ 23,990 | \$ 23,990 | \$ - | \$ 23,990.00 |
| IT - Data Processing | \$ 48,939 | \$ 41,537 | \$ 50,250 | \$ 27,864.00 | \$ 78,114.00 |
| IT - Communications | \$ 1,920 | \$ 5,304 | \$ 5,304 | \$ 1,416.00 | \$ 6,720.00 |
| Professional Development | \$ 3,800 | \$ 4,490 | \$ 4,490 | \$ - | \$ 4,490.00 |
| Office Equipment / Furniture | \$ - | \$ - | \$ - | \$ 4,947.00 | \$ 4,947.00 |
| Operating Fees and Services | \$ 7,000 | \$ 9,480 | \$ 9,480 | \$ - | \$ 9,480.00 |
| Office Move / Remodel 1X | \$ 25,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services 1X | \$ 72,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services | \$ 20,000 | \$ 20,000 | \$ 20,000 | \$ - | \$ 20,000.00 |
| Fees - Professional Services (contingent) | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000.00 | \$ 100,000.00 |
| Rules Implementation (contingent) | \$ - | \$ - | \$ - | \$ 50,000.00 | \$ 50,000.00 |
| Totals Operating Expenses | \$ 312,893 | \$ 185,833 | \$ 194,546 | \$ 340,549.00 | \$ 535,095.00 |
| Agency Total | \$ 1,138,242 | \$ 1,041,374 | \$ 1,121,994 | \$ 679,126.00 | \$ 1,801,120.00 |
| TOTAL AUTHORIZED FTEs | 3 | 3 | 3 | 1 | 4 |

2025-2027 Agency Requested w/Executive Recommendation Changes

Attachment #5

SUMMARIZED

| | <u>2025-2027 Executive Recommendation</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Details</u> |
|-----------------------|---|---------------------------------------|--|----------------|
| Salaries and Benefits | \$ 1,031,894.00 | \$ 295,174.00 | \$ 1,327,068.00 | Itemized Below |
| Operating Expenses | \$ 468,805.00 | \$ 66,290.00 | \$ 535,095.00 | Itemized Below |
| Totals | \$ 1,500,699.00 | \$ 361,464.00 | \$ 1,862,163.00 | |
| FTEs | 3 | 1 | 4 | |

DETAILED

| | <u>2025-2027 Executive Recommendation</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Details</u> |
|------------------------------------|---|---------------------------------------|--|---|
| <u>Salaries and Benefits</u> | | | | |
| Salaries - Permanent | \$ 678,107.00 | \$ 184,320.00 | \$ 862,427.00 | Education Administrator - Salary Workload Increases - OA: \$20,208 Salary, \$4,226 |
| Salaries - Other | \$ 44,567.00 | \$ 32,542.00 | \$ 77,109.00 | Benefits, ED: \$6,762 Salary, \$1,346 Benefits |
| Temporary Salaries | \$ 33,262.00 | \$ - | \$ 33,262.00 | |
| Fringe Benefits (FTE) | \$ 275,958.00 | \$ 78,312.00 | \$ 354,270.00 | Education Administrator - Benefits |
| Total Salaries and Benefits | \$ 1,031,894.00 | \$ 295,174.00 | \$ 1,327,068.00 | |
| FTEs | 3 | 1 | 4 | |

| | <u>2025-2027 Executive Recommendation</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Details</u> |
|---|---|---------------------------------------|--|---|
| <u>Operating Expenses</u> | | | | |
| Travel | \$ 29,776.00 | \$ 2,712.00 | \$ 32,488.00 | Educational Travel |
| Supplies - IT Software | \$ 60,000.00 | \$ - | \$ 60,000.00 | |
| Professional Supplies | \$ 896.00 | \$ - | \$ 896.00 | |
| Miscellaneous Supplies | \$ - | \$ - | \$ - | |
| Office Supplies | \$ 2,500.00 | \$ - | \$ 2,500.00 | |
| Printing | \$ 300.00 | \$ - | \$ 300.00 | |
| Postage | \$ 300.00 | \$ - | \$ 300.00 | |
| Electrical | \$ - | \$ - | \$ - | |
| IT Equipment under \$5000 | \$ 1,070.00 | \$ 850.00 | \$ 1,920.00 | Education Administrator - Printer |
| IT Equipment / Software \$5000+ | \$ 135,000.00 | \$ - | \$ 135,000.00 | |
| Insurance | \$ 403.00 | \$ - | \$ 403.00 | |
| Rentals/Leases-Equip & Other | \$ 3,547.00 | \$ - | \$ 3,547.00 | |
| Rentals/Leases - Bldg/Land | \$ 23,990.00 | \$ - | \$ 23,990.00 | |
| IT - Data Processing | \$ 68,705.00 | \$ 9,409.00 | \$ 78,114.00 | Education Administrator IT - Data |
| IT - Communications | \$ 6,000.00 | \$ 720.00 | \$ 6,720.00 | Education Administrator IT - Communications |
| Professional Development | \$ 4,490.00 | \$ - | \$ 4,490.00 | |
| Office Equipment / Furniture | \$ 2,348.00 | \$ 2,599.00 | \$ 4,947.00 | Education Administrator - Desk |
| Operating Fees and Services | \$ 9,480.00 | \$ - | \$ 9,480.00 | |
| Office Move / Remodel 1X | \$ - | \$ - | \$ - | |
| Fees - Professional Services | \$ 20,000.00 | \$ - | \$ 20,000.00 | |
| Fees - Professional Services (contingent) | \$ 100,000.00 | \$ - | \$ 100,000.00 | |
| Rules Implementation (contingent) | \$ - | \$ 50,000.00 | \$ 50,000.00 | Contingency - Rules Implementation |
| Totals Operating Expenses | \$ 468,805.00 | \$ 66,290.00 | \$ 535,095.00 | |
| | | | \$ - | |
| Agency Total | \$ 1,500,699.00 | \$ 361,464.00 | \$ 1,862,163.00 | |
| Total FTEs | 3 | 1 | 4 | |

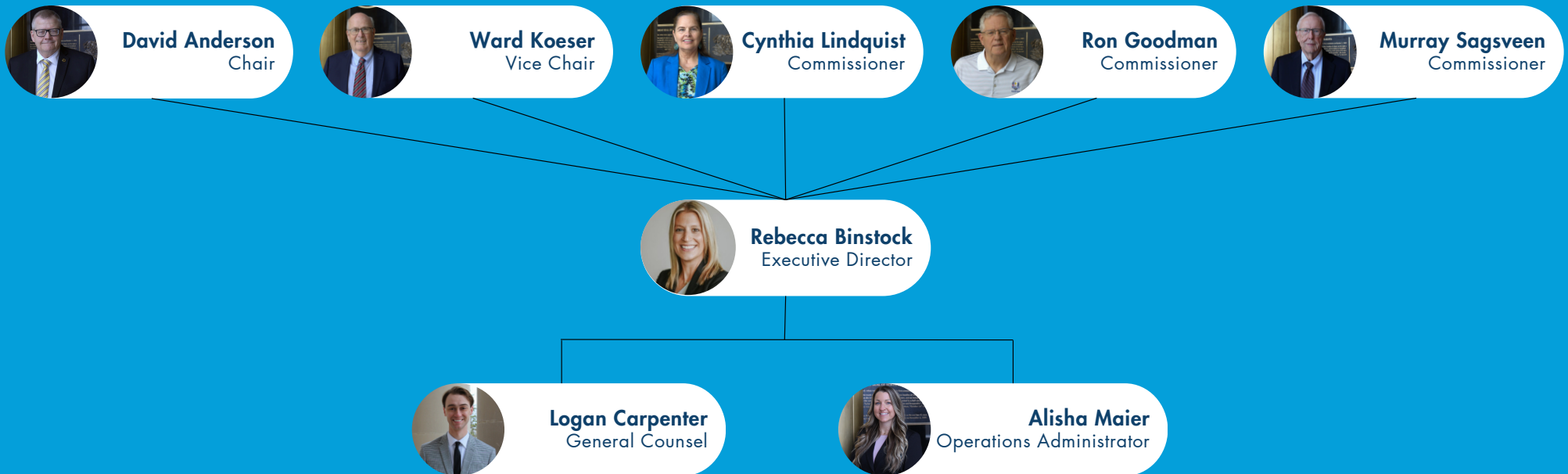
North Dakota Ethics Commission Report

Testimony presented by
Executive Director Rebecca Binstock
Senate Appropriations - Human Services Division
January 14, 2025



ND | ETHICS
COMMISSION

Organizational Chart



Strategic Initiatives

To fulfill its constitutional duties and meet its mission, the Commission has adopted five (5) strategic initiatives.

- 1. Education & Outreach**
- 2. Relationships & Communication**
- 3. Rules Review & Creation**
- 4. Positive Work Culture**
- 5. Meaningful Enforcement**

**A Historical
Exploration of
Ethical Conflicts**



**A Practical
Application of
Conflict Rules**



**Navigating the
Complaint Process**



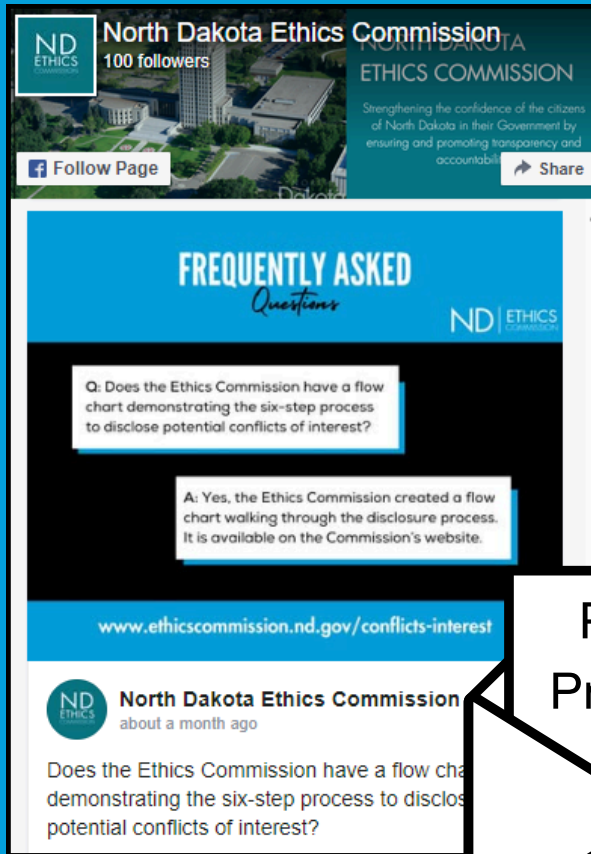
**Lobbyist Gifting,
Naughty or Nice?**



**28
Education Sessions
1,000
North Dakotans**



Relationships & Communication



Quarterly Newsletter
Distribution Lists
Facebook & YouTube
Website Overhaul

Rules Review & Creation



The Complaint Process

Lobbyist Gifts

Appearance of Bias

Conflicts of Interest

Positive Work Culture



Community Engagement

Staff positions filled from quality applicant pools

Executive Assistant ➡ Operations Administrator



Strong applicants to serve as commissioners

UND Law Legislative Intern

No vacant positions



Activity Levels



(as of December 31, 2024)

Activity Levels

| Level of Activity - Statistical Data | | | | | | | | | | | |
|--------------------------------------|------|------|------|------|------|------|-------|--|--|--|--|
| | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | Total | | | | |
| Advisory Opinion Requests | 0 | 0 | 0 | 2 | 3 | 3 | 8 | | | | |
| Complaints | 2 | 3 | 9 | 14 | 15 | 41 | 84 | | | | |
| General Conflict Disclosures | 0 | 0 | 0 | 0 | 6 | 16 | 22 | | | | |
| Meeting Notices | 0 | 0 | 52 | 132 | 112 | 151 | 447 | | | | |
| Quasi-Judicial Disclosures | 0 | 0 | 0 | 8 | 6 | 30 | 44 | | | | |
| Totals | 2 | 3 | 61 | 156 | 142 | 241 | 605 | | | | |
| Meetings | | | | | | | | | | | |
| Public Administrative Hearings | 0 | 2 | 1 | 2 | 0 | 2 | 7 | | | | |
| Regular Meetings | 3 | 10 | 8 | 12 | 10 | 12 | 55 | | | | |
| Special Meetings | 2 | 0 | 0 | 5 | 12 | 3 | 22 | | | | |
| Total All Meetings | 5 | 12 | 9 | 19 | 22 | 17 | 84 | | | | |

(as of December 31, 2024)

Complaint Resolutions

| Year | Total Complaints Received | Summarily Dismissed | | Informally Resolved | | Pending | |
|---------------|---------------------------|---------------------|------------|---------------------|-----------|-----------|------------|
| 2019 | 2 | 2 | 100% | 0 | 0% | 0 | 0% |
| 2020 | 3 | 3 | 100% | 0 | 0% | 0 | 0% |
| 2021 | 9 | 9 | 100% | 0 | 0% | 0 | 0% |
| 2022 | 14 | 5 | 36% | 1 | 7% | 8 | 57% |
| 2023 | 15 | 11 | 73% | 1 | 7% | 3 | 20% |
| 2024 | 41 | 21 | 51% | 0 | 0% | 20 | 49% |
| Totals | 84 | 51 | 61% | 2 | 2% | 31 | 37% |

Note: This table categorizes resolution by the year in which the complaint was filed and does not necessarily reflect the year in which the resolution occurred.

2023-2025 Budget Overview

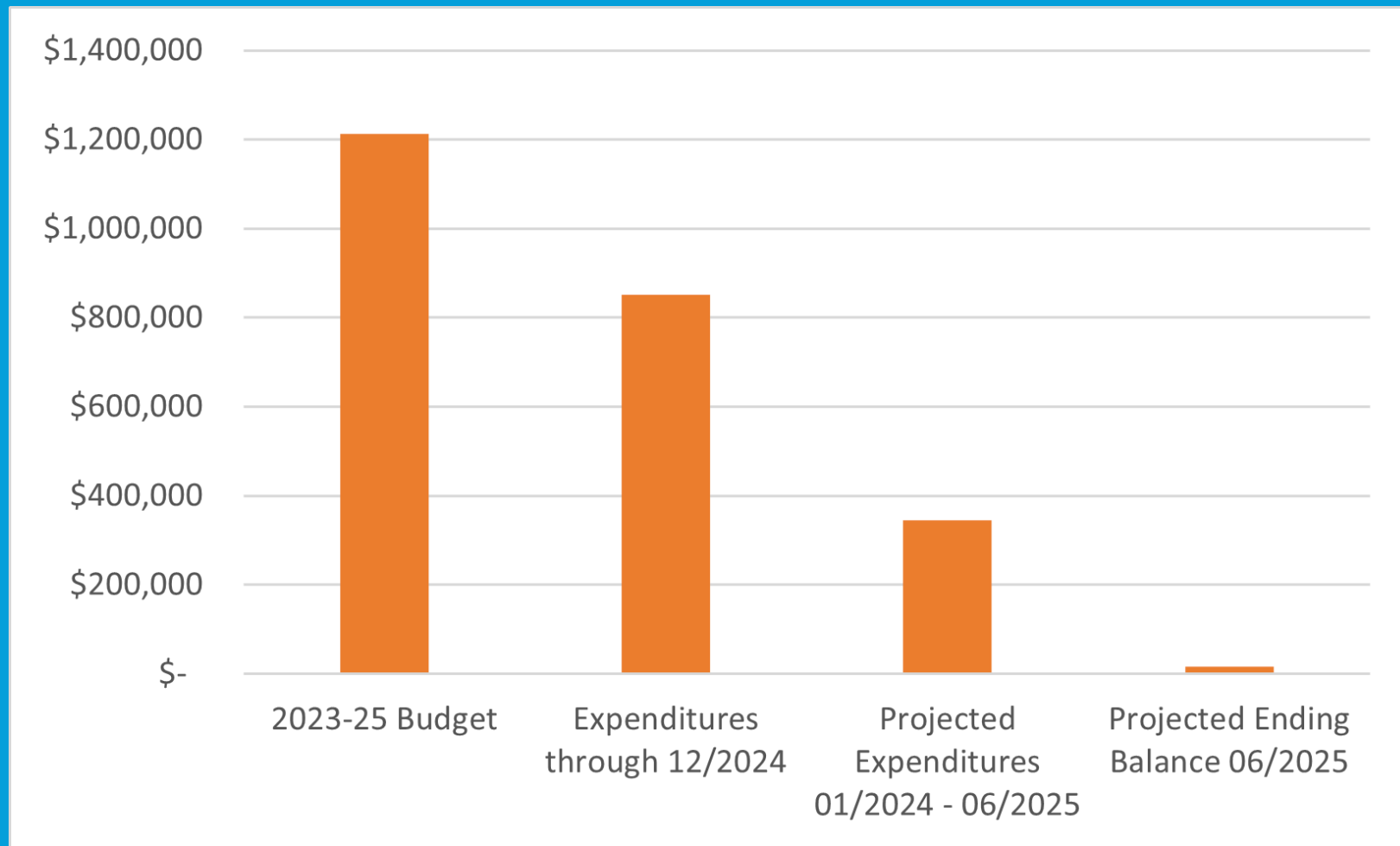
- **2023-2025 Legislative Appropriation (SB 2024) = \$1,138,242**

Additional Appropriations:

- FTE Funding Pool (SB 2015 Section 22) = + \$60,798
- Employer Retirement Contribution Pool (SB 2015 Section 23) = + \$1,957
- State Government Student Internship Program Spending Authority = + \$12,472

-
- **2023-2025 Available Appropriations = \$1,213,489**

2023 - 2025 Budget Status



2025-2027 Budget Request

| | |
|--|--------------------|
| • OMB Adjusted Base Budget = | \$1,121,994 |
| ▪ Education & Communications Administrator | + \$278,922 |
| ▪ Case Management System | + \$195,000 |
| ▪ Rules Implementation | + \$50,000 |
| ▪ Additional Professional Fees | + \$50,000 |
| ▪ Commissioner and Temporary Salaries | + \$43,403 |
| ▪ Workload Increases | + \$32,542 |
| ▪ Additional IT Software and Subscriptions | + \$19,151 |
| ▪ Increased Travel Expenses | + \$7,760 |
| ▪ Furniture | + \$2,348 |

| | |
|---|--------------------|
| • 2025 - 2027 Appropriations Request = | \$1,801,120 |
|---|--------------------|

Education & Communication Administrator

FTE position will develop & implement the Commission's preventative, educational initiatives.

- Salary = **\$184,320**
- Benefits = **\$ 78,312**
- IT Costs = **\$ 10,979**
- Office Equipment = **\$ 2,599**
- Travel = **\$ 2,712**

Total: + \$278,922

Case Management System

Due to steadily increasing filings, file and case management need to be automated and managed through a platform.

| | | | |
|-------------------------|------------------|---------------|--------------------|
| • One-Time Funding = | \$135,000 | Total: | + \$195,000 |
| • Ongoing Maintenance = | \$ 60,000 | | |

Rules Implementation Costs

For the Commission, rules are adopted pursuant to its independent, constitutional authority.

There is currently no funds to implement rules beyond publication of notices, but they likely will be needed in the future as the Commission adopts rules.

*** Funds earmarked for this purpose only. ***

Total: + \$50,000

Commissioner & Temporary Salaries

Beginning in 2025, the Commission will collaborate with the UND School of Law to hire summer and legislative legal interns.

- Intern Pay = \$ 28,484
- Overtime Compensation = \$ 4,778
- Commissioner Salary = \$ 10,141

Total + \$43,403

Workload Increases

- Commission identified an additional **\$20,208** in salaries and **\$4,226** in fringe benefits to cover a salary increase for the operations administrator as a result of workload increases.
- Commission has identified an additional **\$6,762** in salaries and **\$1,346** in fringe benefits to cover a salary increase for the executive director as a result of workload increases.

+ Total: \$32,542



*Thank
you!*

ethicscommission@nd.gov

or

701.328.5325

ND | **ETHICS**
COMMISSION

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004
1/23/2025

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

8:29 a.m. Chairman Dever called the meeting to order.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum, and Mathern

Discussion Topics:

- Case Management System
- Additional Full Time Employee
- HB 1360 Impact

8:39 a.m. Sheila Sandness, Senior Financial Analyst, LC, testified neutral and submitted testimony #31004.

8:47 a.m. Rebecca Binstock, Executive Director, Ethics Commission, testified in favor and submitted testimony #31001.

9:03 a.m. Senator Mathern moved to adopt the proposed amendment testimony #31001.

9:14 a.m. Senator Mathern withdrew motion to amend.

9:35 a.m. Chairman Dever closed the hearing.

Joan Bares, Committee Clerk

SB-2004
1-23-25

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2004
Senate Appropriations –
Human Resources Division

PROPOSED AMENDMENT TO SENATE BILL 2004

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission.

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 | |
|--------------------------------|-------------------|---------------------|----------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| Ethics commission | \$1,041,374 | \$804,457 | \$1,845,831 |
| Total general fund | \$1,041,374 | \$804,457 | \$1,845,831 |
| Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

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:

| <u>One-Time Funding Description</u> | <u>2023-25</u> | <u>2025-27</u> |
|-------------------------------------|----------------|----------------|
| IT Equipment/Software | \$0 | \$135,000 |
| Office Equipment/Furniture | \$0 | \$2,348 |
| New FTE position one-time costs | \$0 | \$5,484 |
| Total general fund | \$0 | \$142,832 |

The 2025-27 biennium one-time funding amounts are not a part of the entity's base budget for the 2027-29 biennium. The ethics commission shall report to the appropriations committees

Sixty-ninth
Legislative Assembly

- 1 of the seventieth legislative assembly on the use of this one-time funding for the biennium
- 2 beginning July 1, 2025, and ending June 30, 2027.

**ND Ethics Commission - SB 2004
2025-2027 Agency Request**

Attachment #4

| SUMMARIZED | | | | | |
|------------------------------|-------------------------|-------------------------|------------------------|------------------------|-----------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | Agency 2025-2027 |
| | Base Budget | Base Budget | 2025-2027 | Agency Optional | Agency 2025-2027 |
| | | | Base Budget | Budget Changes | Total Budget Request |
| Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| Operating Expenses | \$ 312,893.00 | \$ 185,833.00 | \$ 194,546.00 | \$ 332,076.00 | \$ 526,622.00 |
| Totals | \$ 1,138,242.00 | \$ 1,041,374.00 | \$ 1,121,994.00 | \$ 670,653.00 | \$ 1,792,647.00 |
| FTEs | 3 | 3 | 3 | 1 | 4 |

(1) The OMB 2025-27 Adjusted Base Budget removed one time funding and included \$71,907 for restored New & Vacant FTE Pool and \$8,713 in NDIT rate increases.

| DETAILED | | | | | |
|---|-------------------------|-------------------------|----------------------|------------------------|-----------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | Agency 2025-2027 |
| | Base Budget | Base Budget | 2025-2027 | Agency Optional | Agency 2025-2027 |
| | | | Base Budget | Budget Changes | Total Budget Request |
| Salaries and Benefits | | | | | |
| Salaries - Permanent | \$ 519,587.00 | \$ 570,483.00 | \$ 642,390.00 | \$ 184,320.00 | \$ 826,710.00 |
| Salaries - Other | \$ 27,290.00 | \$ 34,426.00 | \$ 34,426.00 | \$ 42,683.00 | \$ 77,109.00 |
| Temporary Salaries | \$ 50,000.00 | \$ - | \$ - | \$ 33,262.00 | \$ 33,262.00 |
| Fringe Benefits (FTE) | \$ 228,472.00 | \$ 250,632.00 | \$ 250,632.00 | \$ 78,312.00 | \$ 328,944.00 |
| Total Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| FTE's | 3 | 3 | 3 | 1 | 4 |
| Operating Expenses | | | | | |
| Travel | \$ 22,016 | \$ 22,016 | \$ 22,016 | \$ 10,472.00 | \$ 32,488.00 |
| Supplies - IT Software | \$ - | \$ - | \$ - | \$ 60,000.00 | \$ 60,000.00 |
| Professional Supplies | \$ 500 | \$ 896 | \$ 896 | \$ - | \$ 896.00 |
| Miscellaneous Supplies | \$ 500 | \$ - | \$ - | \$ - | \$ - |
| Office Supplies | \$ 2,500 | \$ 2,500 | \$ 2,500 | \$ - | \$ 2,500.00 |
| Printing | \$ 200 | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Postage | \$ - | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Electrical | \$ - | \$ - | \$ - | \$ - | \$ - |
| IT Equipment under \$5000 | \$ 2,300 | \$ 1,070 | \$ 1,070 | \$ 850.00 | \$ 1,920.00 |
| IT Equipment / Software \$5000+ | \$ - | \$ - | \$ - | \$ 135,000.00 | \$ 135,000.00 |
| Insurance | \$ 250 | \$ 403 | \$ 403 | \$ - | \$ 403.00 |
| Rentals/Leases-Equip & Other | \$ 3,552 | \$ 3,547 | \$ 3,547 | \$ - | \$ 3,547.00 |
| Rentals/Leases - Bldg/Land | \$ 52,416 | \$ 23,990 | \$ 23,990 | \$ - | \$ 23,990.00 |
| IT - Data Processing | \$ 48,939 | \$ 41,537 | \$ 50,250 | \$ 19,391.00 | \$ 69,641.00 |
| IT - Communications | \$ 1,920 | \$ 5,304 | \$ 5,304 | \$ 1,416.00 | \$ 6,720.00 |
| Professional Development | \$ 3,800 | \$ 4,490 | \$ 4,490 | \$ - | \$ 4,490.00 |
| Office Equipment / Furniture | \$ - | \$ - | \$ - | \$ 4,947.00 | \$ 4,947.00 |
| Operating Fees and Services | \$ 7,000 | \$ 9,480 | \$ 9,480 | \$ - | \$ 9,480.00 |
| Office Move / Remodel 1X | \$ 25,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services 1X | \$ 72,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services | \$ 20,000 | \$ 20,000 | \$ 20,000 | \$ - | \$ 20,000.00 |
| Fees - Professional Services (contingent) | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000.00 | \$ 100,000.00 |
| Rules Implementation (contingent) | \$ - | \$ - | \$ - | \$ 50,000.00 | \$ 50,000.00 |
| Totals Operating Expenses | \$ 312,893 | \$ 185,833 | \$ 194,546 | \$ 332,076.00 | \$ 526,622.00 |
| Agency Total | \$ 1,138,242 | \$ 1,041,374 | \$ 1,121,994 | \$ 670,653.00 | \$ 1,792,647.00 |
| TOTAL AUTHORIZED FTEs | 3 | 3 | 3 | 1 | 4 |

ND Ethics Commission - SB 2004
2025-2027 Agency Requested w/Executive Recommendation Changes

Attachment #5

SUMMARIZED

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Agency Requested Change Details</u> |
|-----------------------|--|--|---|--|--|
| Salaries and Benefits | \$ 1,031,894.00 | \$ (7,859.00) | \$ 295,174.00 | \$ 1,319,209.00 | Itemized below |
| Operating Expenses | \$ 468,805.00 | \$ - | \$ 57,817.00 | \$ 526,622.00 | Itemized below |
| Totals | \$ 1,500,699.00 | \$ (7,859.00) | \$ 352,991.00 | \$ 1,845,831.00 | |
| FTEs | 3 | 0 | 1 | 4 | |

DETAILED

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Agency Requested Change Details</u> |
|------------------------------------|--|--|---|--|---|
| Salaries - Permanent | \$ 678,107.00 | \$ (6,521.00) | \$ 184,320.00 | \$ 855,906.00 | Education Administrator - Salary |
| Salaries - Other | \$ 44,567.00 | | \$ 32,542.00 | \$ 77,109.00 | Workload Increases - OA: \$20,208 Salary, \$4,226 |
| Temporary Salaries | \$ 33,262.00 | | \$ - | \$ 33,262.00 | Benefits, ED: \$6,762 Salary, \$1,346 Benefits |
| Fringe Benefits (FTE) | \$ 275,958.00 | \$ (1,338.00) | \$ 78,312.00 | \$ 352,932.00 | Education Administrator - Benefits |
| Total Salaries and Benefits | \$ 1,031,894.00 | \$ (7,859.00) | \$ 295,174.00 | \$ 1,319,209.00 | |
| FTEs | 3 | 0 | 1 | 4 | |

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Details</u> |
|---|--|--|---|--|--|
| Operating Expenses | | | | | |
| Travel | \$ 29,776.00 | \$ - | \$ 2,712.00 | \$ 32,488.00 | Educational Travel |
| Supplies - IT Software | \$ 60,000.00 | \$ - | \$ - | \$ 60,000.00 | |
| Professional Supplies | \$ 896.00 | \$ - | \$ - | \$ 896.00 | |
| Miscellaneous Supplies | \$ - | \$ - | \$ - | \$ - | |
| Office Supplies | \$ 2,500.00 | \$ - | \$ - | \$ 2,500.00 | |
| Printing | \$ 300.00 | \$ - | \$ - | \$ 300.00 | |
| Postage | \$ 300.00 | \$ - | \$ - | \$ 300.00 | |
| Electrical | \$ - | \$ - | \$ - | \$ - | |
| IT Equipment under \$5000 | \$ 1,070.00 | \$ - | \$ 850.00 | \$ 1,920.00 | Education Administrator - Printer |
| IT Equipment / Software \$5000+ | \$ 135,000.00 | \$ - | \$ - | \$ 135,000.00 | |
| Insurance | \$ 403.00 | \$ - | \$ - | \$ 403.00 | |
| Rentals/Leases-Equip & Other | \$ 3,547.00 | \$ - | \$ - | \$ 3,547.00 | |
| Rentals/Leases - Bldg/Land | \$ 23,990.00 | \$ - | \$ - | \$ 23,990.00 | |
| IT - Data Processing (FTE Package) | \$ - | \$ - | \$ 8,503.00 | \$ 8,503.00 | Education Administrator IT - Data - subtracts \$906 from the initial \$9,409 ask for Education Adminsitrator data processing request due to no longer using EDMS. |
| IT - Data Processing (IT Package) | \$ 68,705.00 | \$ - | \$ (7,567.00) | \$ 61,138.00 | No longer using EDMS: subtracts \$3,409 initial requested shortage amount, subtracts \$343 of the intern data processing request, subtracts \$3,815 from IT Data Processing Packages. |
| IT - Communications | \$ 6,000.00 | \$ - | \$ 720.00 | \$ 6,720.00 | Education Administrator IT - Communications |
| Professional Development | \$ 4,490.00 | \$ - | \$ - | \$ 4,490.00 | |
| Office Equipment / Furniture | \$ 2,348.00 | \$ - | \$ 2,599.00 | \$ 4,947.00 | Education Administrator - Desk |
| Operating Fees and Services | \$ 9,480.00 | \$ - | \$ - | \$ 9,480.00 | |
| Office Move / Remodel 1X | \$ - | \$ - | \$ - | \$ - | |
| Fees - Professional Services | \$ 20,000.00 | \$ - | \$ - | \$ 20,000.00 | |
| Fees - Professional Services (contingent) | \$ 100,000.00 | \$ - | \$ - | \$ 100,000.00 | |
| Rules Implementation (contingent) | \$ - | \$ - | \$ 50,000.00 | \$ 50,000.00 | Contingency - Rules Implementation |
| Totals Operating Expenses | \$ 468,805.00 | \$ - | \$ 57,817.00 | \$ 526,622.00 | |
| Agency Total | \$ 1,500,699.00 | \$ (7,859.00) | \$ 352,991.00 | \$ 1,845,831.00 | |
| Total FTEs | 3 | 0 | 1 | 4 | |



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

| | Armstrong Executive Budget | | | | Senate Version | | | |
|---|----------------------------|--------------------|-------------|--------------------|----------------|--------------------|-------------|--------------------|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 |
| 2025-27 Ongoing Funding Changes | | | | | | | | |
| Salary increase | | \$35,168 | | \$35,168 | | | | \$0 |
| Health insurance increase | | 18,016 | | 18,016 | | | | 0 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 | | | | 0 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 | | | | 0 |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 | | | | 0 |
| IT rate increases | | 8,713 | | 8,713 | | | | 0 |
| IT software and subscriptions | | 19,151 | | 19,151 | | | | 0 |
| Case management system | | 60,000 | | 60,000 | | | | 0 |
| Professional fees | | 50,000 | | 50,000 | | | | 0 |
| Travel costs | | 7,760 | | 7,760 | | | | 0 |
| Total ongoing funding changes | 0.00 | \$314,118 | \$0 | \$314,118 | 0.00 | \$0 | \$0 | \$0 |
| One-Time Funding Items | | | | | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 | | | | \$0 |
| Office furniture | | 2,348 | | 2,348 | | | | 0 |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 | 0.00 | \$0 | \$0 | \$0 |
| Total Changes to Base Level Funding | 0.00 | \$451,466 | \$0 | \$451,466 | 0.00 | \$0 | \$0 | \$0 |
| 2025-27 Total Funding | 3.00 | \$1,492,840 | \$0 | \$1,492,840 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 |
| <i>Federal funds included in other funds</i> | | | | \$0 | | | | |
| | | | | | | | | |
| <i>Total ongoing changes - Percentage of base level</i> | 0.0% | 30.2% | N/A | 30.2% | 0.0% | 0.0% | N/A | 0.0% |
| <i>Total changes - Percentage of base level</i> | 0.0% | 43.4% | N/A | 43.4% | 0.0% | 0.0% | N/A | 0.0% |

SB 2004
1-23-25



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

| | Burgum Budget | | | | Armstrong Budget | | | | Armstrong Budget Compared to Burgum Budget | | | |
|---|------------------|-----------------|----------------|-------------|------------------|-----------------|----------------|-------------|--|-----------------|----------------|-----------|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | Increase (Decrease) | | | |
| | | | | | | | | | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 0.00 | \$0 | \$0 | \$0 |
| 2025-27 Ongoing Funding Changes | | | | | | | | | | | | |
| Salary increase | | \$43,027 | | \$43,027 | | \$35,168 | | \$35,168 | | (\$7,859) | | (\$7,859) |
| Health insurance increase | | 18,016 | | 18,016 | | 18,016 | | 18,016 | | | | 0 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 | | 60,798 | | 60,798 | | | | 0 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 | | 11,109 | | 11,109 | | | | 0 |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 | | 43,403 | | 43,403 | | | | 0 |
| IT rate increases | | 8,713 | | 8,713 | | 8,713 | | 8,713 | | | | 0 |
| IT software and subscriptions | | 19,151 | | 19,151 | | 19,151 | | 19,151 | | | | 0 |
| Case management system | | 60,000 | | 60,000 | | 60,000 | | 60,000 | | | | 0 |
| Professional fees | | 50,000 | | 50,000 | | 50,000 | | 50,000 | | | | 0 |
| Travel costs | | 7,760 | | 7,760 | | 7,760 | | 7,760 | | | | 0 |
| Total ongoing funding changes | 0.00 | \$321,977 | \$0 | \$321,977 | 0.00 | \$314,118 | \$0 | \$314,118 | 0.00 | (\$7,859) | \$0 | (\$7,859) |
| One-Time Funding Items | | | | | | | | | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 | | \$135,000 | | \$135,000 | | | | \$0 |
| Office furniture | | 2,348 | | 2,348 | | 2,348 | | 2,348 | | | | 0 |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 | 0.00 | \$137,348 | \$0 | \$137,348 | 0.00 | \$0 | \$0 | \$0 |
| Total Changes to Base Level Funding | 0.00 | \$459,325 | \$0 | \$459,325 | 0.00 | \$451,466 | \$0 | \$451,466 | 0.00 | (\$7,859) | \$0 | (\$7,859) |
| 2025-27 Total Funding | 3.00 | \$1,500,699 | \$0 | \$1,500,699 | 3.00 | \$1,492,840 | \$0 | \$1,492,840 | 0.00 | (\$7,859) | \$0 | (\$7,859) |
| <i>Federal funds included in other funds</i> | | | \$0 | | | | \$0 | | | | \$0 | |
| <i>Total ongoing changes - Percentage of base level</i> | 0.0% | 30.9% | N/A | 30.9% | 0.0% | 30.2% | N/A | 30.2% | N/A | N/A | N/A | N/A |
| <i>Total changes - Percentage of base level</i> | 0.0% | 44.1% | N/A | 44.1% | 0.0% | 43.4% | N/A | 43.4% | N/A | N/A | N/A | N/A |

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004
2/4/2025

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

2:50 p.m. Chairman Dever opened the hearing.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum, and Mathern

Discussion Topics:

- Full-Time Employee
- Case Management System
- Section 2

2:55 p.m. Sheila Sandness, Senior Fiscal Analyst, LC, testified neutral and submitted testimony (long sheets) #34727.

3:01 p.m. Rebecca Binstock, Executive Director, ND Ethics Commission, testified in favor.

3:09 p.m. Alisha Maier, Operations Administrator, ND Ethics Commission, testified in favor.

3:21 p.m. Senator Mathern moved to adopt an amendment providing \$50,000 for the cost of a case management system and for a Full-Time Education and Training employee LC 25.0171.01001 and submitted testimony #35552.

3:21 p.m. Senator Davison seconded the motion.

3:26 p.m. Voice Vote - Motion passed.

3:27 p.m. Senator Cleary moved Do Pass as Amended.

3:27 p.m. Senator Mathern seconded the motion.

Roll Call Vote:

| Senators | Vote |
|---------------------------|------|
| Senator Dick Dever | Y |
| Senator Sean Cleary | Y |
| Senator Kyle Davison | Y |
| Senator Jeffery J. Magrum | N |
| Senator Tim Mathern | Y |

Motion passed. 4-1-0

Senator Cleary will carry the bill.

Senate Appropriations Human Resources Division
SB 2004
02/04/2025
Page 2

3:30 p.m. Chairman Dever closed the hearing.

Joan Bares, Committee Clerk



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

| | Armstrong Executive Budget | | | | Senate Version | | | | Senate Compared to Executive Budget | | | |
|--|----------------------------|-----------------|----------------|-------------|------------------|-----------------|----------------|-------------|-------------------------------------|-----------------|----------------|-------------|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | Increase (Decrease) | | | |
| | | | | | | | | | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 0.00 | \$0 | \$0 | \$0 |
| 2025-27 Ongoing Funding Changes | | | | | | | | | | | | |
| Salary increase | | \$35,168 | | \$35,168 | | | | \$0 | | (\$35,168) | | (\$35,168) |
| Health insurance increase | | 18,016 | | 18,016 | | | | 0 | | (18,016) | | (18,016) |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 | | | | 0 | | (60,798) | | (60,798) |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 | | | | 0 | | (11,109) | | (11,109) |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 | | | | 0 | | (43,403) | | (43,403) |
| IT rate increases | | 8,713 | | 8,713 | | | | 0 | | (8,713) | | (8,713) |
| IT software and subscriptions | | 19,151 | | 19,151 | | | | 0 | | (19,151) | | (19,151) |
| Case management system | | 60,000 | | 60,000 | | | | 0 | | (60,000) | | (60,000) |
| Professional fees | | 50,000 | | 50,000 | | | | 0 | | (50,000) | | (50,000) |
| Travel costs | | 7,760 | | 7,760 | | | | 0 | | (7,760) | | (7,760) |
| Total ongoing funding changes | 0.00 | \$314,118 | \$0 | \$314,118 | 0.00 | \$0 | \$0 | \$0 | 0.00 | (\$314,118) | \$0 | (\$314,118) |
| One-Time Funding Items | | | | | | | | | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 | | | | \$0 | | (\$135,000) | | (\$135,000) |
| Office furniture | | 2,348 | | 2,348 | | | | 0 | | (2,348) | | (2,348) |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 | 0.00 | \$0 | \$0 | \$0 | 0.00 | (\$137,348) | \$0 | (\$137,348) |
| Total Changes to Base Level Funding | 0.00 | \$451,466 | \$0 | \$451,466 | 0.00 | \$0 | \$0 | \$0 | 0.00 | (\$451,466) | \$0 | (\$451,466) |
| 2025-27 Total Funding | 3.00 | \$1,492,840 | \$0 | \$1,492,840 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 0.00 | (\$451,466) | \$0 | (\$451,466) |
| Federal funds included in other funds | | | \$0 | | | | \$0 | | | | \$0 | |
| Total ongoing changes - Percentage of base level | 0.0% | 30.2% | N/A | 30.2% | 0.0% | 0.0% | N/A | 0.0% | N/A | N/A | N/A | N/A |
| Total changes - Percentage of base level | 0.0% | 43.4% | N/A | 43.4% | 0.0% | 0.0% | N/A | 0.0% | N/A | N/A | N/A | N/A |

SB 2004
2-5-25

25.0171.01001

Title.
Fiscal No. 1

Sixty-ninth
Legislative Assembly
of North Dakota

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 5, 2025

PROPOSED AMENDMENTS TO

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.

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

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

| | Adjustments or | | |
|--|------------------------|---------------------|------------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 11 Ethics commission | \$1,041,374 | \$0 | \$1,041,374 |
| 12 Total general fund | \$1,041,374 | \$0 | \$1,041,374 |
| 13 Full-time equivalent positions | 3.00 | 0.00 | 3.00 |
| 14 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 15 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 16 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 17 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

- 18 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
19 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
20 items included in the appropriation in section 1 of this Act which are not included in the entity's

Sixty-ninth
Legislative Assembly

1 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
2 committees of the seventieth legislative assembly regarding the use of this funding:

| 3 <u>One-Time Funding Description</u> | <u>General Fund</u> |
|---------------------------------------|---------------------|
| 4 Case management system | \$50,000 |
| 5 Office furniture | 2,348 |
| 6 New FTE position one-time costs | <u>5,484</u> |
| 7 Total | \$57,832 |

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

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

| | Base Budget | Senate Changes | Senate Version |
|-------------------------|----------------|-------------------|-------------------|
| New and vacant FTE pool | | \$246,304 | \$246,304 |
| Ethics Commission | \$1,041,374 | 308,563 | 1,349,937 |
| Total all funds | \$1,041,374 | \$554,867 | \$1,596,241 |
| Less estimated income | 0 | 0 | 0 |
| General fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| FTE | 3.00 | 1.00 | 4.00 |

Department 195 - Ethics Commission - Detail of Senate Changes

| | Adds Funding for Salary and Benefit Increases ¹ | Adds Funding to Replace 2023-25 New and Vacant FTE Pool ² | Transfers Funding for 2025-27 New and Vacant FTE Pool ³ | Adds Education and Communication Position ⁴ | Increases Commissioner and Temporary Salary Funding ⁵ | Increases Operating Funding ⁶ |
|-------------------------|---|--|--|---|---|--|
| New and vacant FTE pool | | | \$246,304 | | | |
| Ethics Commission | \$53,184 | \$71,907 | (276,825) | \$278,922 | \$43,403 | \$85,624 |
| Total all funds | \$53,184 | \$71,907 | (\$30,521) | \$278,922 | \$43,403 | \$85,624 |
| Less estimated income | 0 | 0 | 0 | 0 | 0 | 0 |
| General fund | \$53,184 | \$71,907 | (\$30,521) | \$278,922 | \$43,403 | \$85,624 |
| FTE | 0.00 | 0.00 | 0.00 | 1.00 | 0.00 | 0.00 |

| | Adds One- Time Funding for a Case Management System ⁷ | Adds One- Time Funding for Office Furniture ⁸ | Total Senate Changes |
|-------------------------|--|---|-------------------------|
| New and vacant FTE pool | | | \$246,304 |
| Ethics Commission | \$50,000 | \$2,348 | 308,563 |
| Total all funds | \$50,000 | \$2,348 | \$554,867 |
| Less estimated income | 0 | 0 | 0 |
| General fund | \$50,000 | \$2,348 | \$554,867 |
| FTE | 0.00 | 0.00 | 1.00 |

¹ The following funding is added for 2025-27 biennium salary adjustments of 3 percent on July 1, 2025, and 3 percent on July 1, 2026, and increases in health insurance premiums from \$1,643 to \$1,893 per month:

| | General Fund |
|---------------------------|-------------------------|
| Salary increase | \$35,168 |
| Health insurance increase | 18,016 |
| Total | \$53,184 |

² Funding is added to replace 2023-25 biennium new and vacant FTE pool funding as follows:

| | General Fund |
|----------------------|-------------------------|
| Vacant FTE positions | \$11,109 |
| New FTE positions | 60,798 |
| Total | \$71,907 |

³ Funding of \$276,825 for a new FTE positions and estimated savings from vacant FTE positions is removed and funding of \$246,304 is added for a 2025-27 new and vacant FTE pool line item as follows:

| | |
|------------------------|-----------------|
| | General |
| | Fund |
| New FTE positions | (\$262,632) |
| Vacant FTE positions | <u>(14,193)</u> |
| Total | (\$276,825) |
| Funding pool line item | <u>246,304</u> |
| Net savings | (\$30,521) |

⁴ Ongoing (\$273,438) and one-time (\$5,484) funding is provided to add a communication and education FTE position.

⁵ Funding is increased for internship salaries (\$28,484), overtime pay (\$4,778), and commissioner salaries (\$10,141).

⁶ Operating funding is increased for the following items:

| | |
|---|----------------|
| | General |
| | Fund |
| Information technology rate increases | \$8,713 |
| Information technology software and subscriptions | 19,151 |
| Professional fees | 50,000 |
| Travel costs | <u>7,760</u> |
| Total | \$85,624 |

⁷ One-time funding is added to implement a case management system.

⁸ One-time funding is added for the purchase of office furniture.

Senate Bill No. 2004 - Other Changes - Senate Action

This amendment also adds a section regarding the use of funding from the new and vacant FTE pool line item.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2004
2/6/2025

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission.

11:42 a.m. Chairman Bekkedahl opened the hearing.

Members Present: Chairman Bekkedahl, Vice-Chairman Erbele, and Senators Burckhard, Cleary, Conley, Davison, Dever, Dwyer, Magrum, Mathern, Meyer, Schaible, Sickler, Sorvaag, Thomas.

Members Absent: Senator Wanzek.

Discussion Topics:

- IT and Subscription Fee Increases
- Added Full Time Employees
- Education Importance
- Complaint Trends

11:43 a.m. Senator Cleary introduced the bill, the amendment LC 25.0171.01001, and submitted testimony #36001.

12:03 p.m. Senator Cleary moved Amendment LC 25.0171.01001.

12:03 p.m. Senator Dever seconded the motion.

| Senators | Vote |
|----------------------------|------|
| Senator Brad Bekkedahl | Y |
| Senator Robert Erbele | N |
| Senator Randy A. Burckhard | Y |
| Senator Sean Cleary | Y |
| Senator Cole Conley | Y |
| Senator Kyle Davison | Y |
| Senator Dick Dever | Y |
| Senator Michael Dwyer | N |
| Senator Jeffery J. Magrum | N |
| Senator Tim Mathern | Y |
| Senator Scott Meyer | N |
| Senator Donald Schaible | N |
| Senator Jonathan Sickler | Y |
| Senator Ronald Sorvaag | Y |
| Senator Paul J. Thomas | N |
| Senator Terry M. Wanzek | A |

Motion Passed 9-6-1.

12:04 p.m. Senator Dever moved a Do Pass as Amended.

12:04 p.m. Senator Davison seconded the motion.

| Senators | Vote |
|----------------------------|-------------|
| Senator Brad Bekkedahl | Y |
| Senator Robert Erbele | N |
| Senator Randy A. Burckhard | Y |
| Senator Sean Cleary | Y |
| Senator Cole Conley | Y |
| Senator Kyle Davison | Y |
| Senator Dick Dever | Y |
| Senator Michael Dwyer | N |
| Senator Jeffery J. Magrum | N |
| Senator Tim Mathern | Y |
| Senator Scott Meyer | N |
| Senator Donald Schaible | N |
| Senator Jonathan Sickler | Y |
| Senator Ronald Sorvaag | Y |
| Senator Paul J. Thomas | N |
| Senator Terry M. Wanzek | A |

Motion Passed 9-6-1.

Senator Cleary will carry the bill.

12:07 p.m. Chairman Bekkedahl closed the hearing.

Elizabeth Reiten, Committee Clerk

25.0171.01001
Title.02000
Fiscal No. 1

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 5, 2025

RS 2/6/25

1.14

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

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.

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

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

| | Adjustments or | | |
|--|------------------------|-----------------|------------------------|
| | Base Level | Enhancements | Appropriation |
| 11 Ethics commission | \$1,041,374 | \$0 | \$1,041,374 |
| 12 Total general fund | \$1,041,374 | \$0 | \$1,041,374 |
| 13 Full-time equivalent positions | 3.00 | 0.00 | 3.00 |
| 14 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 15 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 16 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 17 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

18 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
19 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
20 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 | <u>5,484</u> |
| Total | \$57,832 |

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.

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

| | Base Budget | Senate Changes | Senate Version |
|-------------------------|----------------|-------------------|-------------------|
| New and vacant FTE pool | | \$246,304 | \$246,304 |
| Ethics Commission | \$1,041,374 | 308,563 | 1,349,937 |
| Total all funds | \$1,041,374 | \$554,867 | \$1,596,241 |
| Less estimated income | 0 | 0 | 0 |
| General fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| FTE | 3.00 | 1.00 | 4.00 |

Department 195 - Ethics Commission - Detail of Senate Changes

| | Adds Funding for Salary and Benefit Increases ¹ | Adds Funding to Replace 2023-25 New and Vacant FTE Pool ² | Transfers Funding for 2025-27 New and Vacant FTE Pool ³ | Adds Education and Communication Position ⁴ | Increases Commissioner and Temporary Salary Funding ⁵ | Increases Operating Funding ⁶ |
|-------------------------|---|--|--|---|---|--|
| New and vacant FTE pool | | | \$246,304 | | | |
| Ethics Commission | \$53,184 | \$71,907 | (276,825) | \$278,922 | \$43,403 | \$85,624 |
| Total all funds | \$53,184 | \$71,907 | (\$30,521) | \$278,922 | \$43,403 | \$85,624 |
| Less estimated income | 0 | 0 | 0 | 0 | 0 | 0 |
| General fund | \$53,184 | \$71,907 | (\$30,521) | \$278,922 | \$43,403 | \$85,624 |
| FTE | 0.00 | 0.00 | 0.00 | 1.00 | 0.00 | 0.00 |

| | Adds One- Time Funding for a Case Management System ⁷ | Adds One- Time Funding for Office Furniture ⁸ | Total Senate Changes |
|-------------------------|--|---|-------------------------|
| New and vacant FTE pool | | | \$246,304 |
| Ethics Commission | \$50,000 | \$2,348 | 308,563 |
| Total all funds | \$50,000 | \$2,348 | \$554,867 |
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25
414

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|---|-------------------------|
| Information technology rate increases | \$8,713 |
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⁸ One-time funding is added for the purchase of office furniture.

Senate Bill No. 2004 - Other Changes - Senate Action

This amendment also adds a section regarding the use of funding from the new and vacant FTE pool line item.

**REPORT OF STANDING COMMITTEE
SB 2004**

Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS** ([25.0171.01001](#)) and when so amended, recommends **DO PASS** (9 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2004 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0171.01001

Title.

Fiscal No. 1

Prepared by the Legislative Council
 staff for Senate Appropriations - Human
 Resources Division Committee
 February 5, 2025

Sixty-ninth
 Legislative Assembly
 of North Dakota

PROPOSED AMENDMENTS TO**SENATE BILL NO. 2004**

Introduced by

Appropriations Committee

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| 12 Total general fund | \$1,041,374 | \$0 | \$1,041,374 |
| 13 Full-time equivalent positions | 3.00 | 0.00 | 3.00 |
| 14 <u>Ethics commission</u> | <u>\$1,041,374</u> | <u>\$308,563</u> | <u>\$1,349,937</u> |
| 15 <u>New and vacant FTE pool</u> | <u>0</u> | <u>246,304</u> | <u>246,304</u> |
| 16 <u>Total general fund</u> | <u>\$1,041,374</u> | <u>\$554,867</u> | <u>\$1,596,241</u> |
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Sixty-ninth
Legislative Assembly

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13 sixty-ninth legislative assembly.

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

| | Base Budget | Senate Changes | Senate Version |
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| New and vacant FTE pool | | \$246,304 | \$246,304 |
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| General fund | \$1,041,374 | \$554,867 | \$1,596,241 |
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Department 195 - Ethics Commission - Detail of Senate Changes

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| Total all funds | \$53,184 | \$71,907 | (\$30,521) | \$278,922 | \$43,403 | \$85,624 |
| Less estimated income | 0 | 0 | 0 | 0 | 0 | 0 |
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| | Adds One- Time Funding for a Case Management System ⁷ | Adds One- Time Funding for Office Furniture ⁸ | Total Senate Changes |
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Senate Bill No. 2004 - Other Changes - Senate Action

This amendment also adds a section regarding the use of funding from the new and vacant FTE pool line item.

Commissioner salaries

** 10,141*

Don

2025 HOUSE APPROPRIATIONS

SB 2004

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2004
3/18/2025

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission.

9:01 a.m. Chairman Nathe called the meeting to order.

Members present: Chairman Nathe, Vice Chairman Swiontek, Representatives Louser, Martinson, Richter, Sanford and Hanson.

Discussion Topics:

- Outdated Rules

9:03 a.m. Rebecca Binstock, Executive Director, North Dakota Ethics Commission, presented and testified in favor #42561, #42562.

9:40 a.m. Logan Carpenter, General Counsel, ND Ethics Commission, testified and answered committee questions.

10:52 a.m. Rebecca Binstock, Executive Director, continued her presentation in favor.

10:57 a.m. Murray Sagsveen, Commissioner, ND Ethics Commission, presented testimony in favor #42653.

Additional written testimony:

Kathleen Tweeten, written in favor #42592.

Brady Larson, Senior Fiscal Analyst, Legislative Council, written, neutral #42802.

Heather Traynor, Youth and Family Court Specialist, ND Courts, in favor #42894.

11:12 a.m. Chairman Nathe closed the meeting.

Steven Riehl, Committee Clerk



North Dakota Ethics Commission

Senate Bill 2004

Testimony presented by

Executive Director, Rebecca Binstock

Before the House Appropriations – Education and Environment

Division

March 18, 2025

I. Agency Purpose & History

Good morning, Mr. Chairman and Committee members, my name is Rebecca Binstock. I have the privilege of serving as the Executive Director of the North Dakota Ethics Commission.

The Ethics Commission was established as an independent constitutional entity in 2018. The Commission consists of five Commissioners, four of which were appointed September 1, 2019, and have since been reappointed. The newest Commissioner, Murray Sagsveen, was appointed on October 1, 2024, with the retirement of then-Chair, Paul Richard.

Commission members are:

- Chair David Anderson (Bismarck)
- Vice-Chair Ward Koeser (Williston)
- Ron Goodman (Oakes)
- Dr. Cynthia Lindquist (Grand Forks)
- Murray Sagsveen (Bismarck)

Commissioners are appointed upon consensus agreement of the Governor, Senate Majority Leader, and Senate Minority Leader. The Commission staff consists of Executive Director, General Counsel, and Operations Administrator.

As we discuss the current operations and budget requests of the Commission, a brief overview of the Ethics Commission's operational history up to the current biennium is helpful to understand where the Commission stands today and its future objectives.

- November 2018: Commission was created by voters

- January – May 2019: Legislative assembly implements Article XIV
- September 2019: Commissioners appointed for staggered terms
- September 12, 2019: First Ethics Commission Meeting
- January 2020: Hiring of Executive Director
- June 17, 2020: Complaint Rule Adopted
- October 6, 2020: Lobbyist Gifting Rule Adopted
- January – May 2021: Advisory Opinion Legislation Enacted
- June 23, 2022: Quasi-Judicial Bias Rule Adopted
- October 2022: Hiring of successor Executive Director
- October 19, 2022: Conflicts of Interest Rule Adopted
- November 2022: Commission vacates privately leased office space
- Oct - Nov 2022: Complaint filings increase exponentially.
- January – May 2023: Additions of Executive Assistant & General Counsel
- July 2023: Commission relocates to State Capitol
- September 2023: Hiring of General Counsel & Executive Assistant

Article XIV of the North Dakota Constitution gives the Commission its duties and scope of authority. Article XIV outlines two directives of the Commission: (1) to adopt ethics rules related to transparency, corruption, elections, and lobbying; and (2) investigate alleged violations of Article XIV of the Constitution, chapter 54-66 of the North Dakota Century Code, and other state laws related to transparency, corruption, elections, and lobbying. The operations of the Commission are further governed by North Dakota Century Code Chapter 54-66. The mission of the North Dakota Ethics Commission is to strengthen the confidence of the citizens of North Dakota in their Government by ensuring and promoting transparency and accountability. To meet its mission, the Commission focuses on providing education and training to help individuals manage ethical concerns.

II. Agency Update

To fulfill its constitutional duties and meet its mission, in October 2023, the Commission adopted a strategic plan for the 2023 – 2025 biennium, consisting of 5 strategic initiatives. **(Attachment No. 1)**. These strategic initiatives collectively integrate to create an overarching plan which was practically implemented to enable the Commission to promote transparency and accountability in state government. These strategic initiatives are also the foundation for the Commission’s goals for the 2025-2027 biennium.

The Commission’s Strategic Plan for the 2023-2025 biennium consists of the following strategic initiatives: (1) Education and Outreach, (2) Relationships & Communications, (3) Rules Review & Creation, (4) Positive Work Culture, and (5) Meaningful Enforcement.

Reviewing the Commission's outcomes and accomplishments through this past biennium and, its budgetary needs for the next biennium, is best understood through examining these strategic initiatives:

1. Education and Outreach

- a. The goal of this initiative is to provide tailored education and practical training on Commission adopted rules, Article XIV of the North Dakota Constitution, and N.D.C.C. ch. 54-66 to the regulated community as well as the residents of North Dakota.
- b. From January 1, 2024 to December 31, 2024, Commission staff conducted **28** educational and/or training presentations, which were attended by an estimated **1,000** North Dakota residents.
- c. The most notable of these educational and training presentations was the Commission's Dakota Dilemmas Webinar Series. The first webinar, "Dakota Dilemmas: A Historical Exploration of Ethical Conflicts" was produced and hosted online on March 14, 2024, and attended by 171 individuals. This webinar was 1.5 hours in length and explored how legislation, statutory initiatives, trips to the North Dakota Supreme Court, and constitutional amendments transformed ethics laws in the state over its history.

The second webinar, "Dakota Dilemmas: A Practical Application of Conflict Rules" was produced and hosted online on April 23, 2024, and attended by 158 individuals. This webinar was 1.5 hours in length and walked through the Commission's rules and offered a step-by-step approach for officials to navigate disclosing and managing potential conflicts.

The third webinar, "Dakota Dilemmas: Navigating the Complaint Process" was produced and hosted online on June 25, 2024, and attended by 124 individuals. This webinar was 1 hour in length and illustrated the steps in the complaint process and highlighted the roles the complainant, the respondent, and the Ethics Commission each have along the way.

The fourth webinar, "Dakota Dilemmas: Lobbyist Gifting – Naughty or Nice?" was produced and hosted online on December 12, 2024, and attended by 119 individuals. The webinar was 1 hour in length and discussed the gifting prohibition in Article XIV of the Constitution and the Commission-created exceptions to the prohibition.

The Commission offered continuing education credits to lawyers, paralegals, and accountants for attendance at the Dakota Dilemmas webinars.

2. Relationships & Communications

- a. The goal of this initiative is to establish open lines of communication with individuals subject to Commission oversight and the public through various mediums and communication channels. Additionally, the additional goal is to create meaningful opportunities for individuals subject to Commission oversight to explore the practical implications of Commission-established rules. Prior to mid-2023 very few communications channels existed from the Commission to the regulated community and North Dakota citizens.
- b. Commission created a quarterly newsletter: *Prairie Principles*. *Prairie Principles* provides up-to-date information regarding proposed ethics rules, advisory opinions, educational opportunities, and meeting minutes. The *Prairie Principles* Newsletter was first distributed on July 31, 2024, and rolls out quarterly. It is distributed through the Commission's distribution list.
- c. Commission located, categorized, and created distribution lists, organized by stakeholder classification (i.e. members of the public, elected officials, appointed officials, legislative employees, points of contacts for boards and commissions, and registered lobbyists) to provide communication to stakeholders and the regulated community.
- d. Commission created a Facebook page in October 2023 and a YouTube Channel in February 2024 to engage with North Dakotans through social media. The Commission creates its own content and manages these pages internally. We are able to share information about upcoming meetings, educational opportunities, and general information.
- e. The Commission's website was also overhauled, starting with updates in October 2023. The website has been re-organized, contains new educational information, links to social media and videos, and allows members of the public to provide direct input on ethics rules to the Commission through the website.

3. Rules Review & Adoption

- a. The goal of this initiative is to conduct a thorough review of potential rules for adoption as well as enacted laws to align North Dakota ethics laws with national standards and caselaw.

- b. The Commission has been working on two major rule adoptions throughout 2024: rules related to travel disclosures and financial disclosures for public officials. The goal of these rules is to increase transparency through disclosure in those areas. The Commission has draft rules in these areas ready for the rulemaking process. Commission staff also began preliminary research on campaign finance and disclosure rules.
- c. The Commission directed general counsel to conduct a review of rules already implemented and rules to be implemented to get North Dakota ethics laws up to date with national standards and case law. Upon commencing this process, Commission staff proposed a two-step process to address rule adoption: (1) fixing the flaws in the complaint process and then (2) a wholistic adoption of rules related to transparency, corruption, elections, and lobbying.
- d. The Commission adopted this two-step process and commenced work on amending the complaint process that shifts to be more proactive, resolve issues sooner, and reduce the exploitation of the process. This work resulted in HB 1360 as introduced, which did not pass the House.

4. Positive Work Culture

- a. The goal of this initiative is to welcome and provide quality internal training to new staff and commissioners, to support the continuing education of staff and commissioners, and implement strategies that promote creativity, empowerment, engagement, and value in staff and commissioners.
- b. In September 2023, the Commission filled the two (2) FTE positions, hiring both a General Counsel and Executive Assistant. A General Counsel was selected from 23 applicants. An Executive Assistant was selected from 22 applicants. Applicants for both positions were from state agencies and private sectors.
- c. In mid-2024, the Executive Assistant position was reclassified to an Operations Administrator position as the role evolved to include additional duties, including social media and website management, budget management, and record retention management, as well as an increase in overall workload with increasing filings.
- d. In September 2024, Chair Paul Richard retired from the Commission. Commissioner Murray Sagsveen was appointed on October 1, 2024, upon

consensus agreement of the governor, senate majority leader, and senate minority leader. Commissioner Sagsveen was selected from 29 applicants.

- e. The Commission partnered with UND School of Law to host a legislative legal intern for the 2025 legislative session.
- f. There were no vacant positions and zero staff turnover during the 2023-2025 biennium.

5. Meaningful Enforcement

- a. Prior to October 2022, all but one complaint filed with the Commission had been summarily dismissed. As complaints ticked up in late 2022, the Commission created internal processing systems and standardized communications related to the complaint process.
- b. In 2024, the Commission, in partnership with NDIT, completed the transition of the Commission's paper forms to online forms, submittable through the Commission's website.
- c. The Commission has timely summarily dismissed complaints when appropriate. However, Commission staff identified bottlenecks in the complaint process that significantly delay complaint resolution. The Commission currently has approximately 86 complaints pending.
- d. Despite those bottlenecks, Commission staff has made significant strides in complaint investigations.
- e. The Commission expects to wrap-up several investigations in Q2 of 2025.

III. Current Budget Status

The 2023-25 biennial budget for the Ethics Commission is \$1,213,469 in general funds, including \$98,825 in one-time funding. This one-time funding included \$25,000 to remodel the Commission's office space when it moved into the capitol, \$72,000 one-time professional fees related to complaints, and \$1,825 New FTE IT. The Commission is a general funded agency and does not receive federal or special funding. As of February 28, 2025, the Commission has spent \$953,691 with a remaining balance of \$259,777. The Commission expects a turn back of approximately \$2,000 to the general fund at the end of the biennium.

For the Commission's 2023-2025 budget, the legislature appropriated 2 new FTE positions. \$260,304 of funds were appropriated for the general counsel position, with the projected total cost of \$266,107 for the 2023-2025 biennium. \$174,934 (before FTE & Vacant Funding Pool Removal) of funds were appropriated for the executive assistant position, with the projected total costs of \$181,207.

The Commission did not have any vacant position savings for the 2023-2025 biennium. \$60,798 of funds was transferred from the OMB new and vacancy pool in October 2023. The General Counsel FTE position was not included in OMB's new/vacancy funding pool. The Commission expects to request an additional \$3,469 from the pool in May 2025.

To date, the Commission has had one audit - with no formal audit findings. We can provide the Committee with a current budget update as of February 28, 2025, if requested.

IV. 2025-2027 Budget Request

The Commission is seeking a total of \$1,801,120 with four (4) FTEs to adequately fund the Commission for the 2025-2027 biennium.

The Ethics Commission's base budget for the 2025-27 biennium is \$1,041,374 with three (3) FTEs. Our OMB adjusted base budget for 2025-27 is \$1,121,994 which includes OMB's adjustment to the base of \$80,620 that included restored amounts for new and vacant FTE pool and an increase for NDIT rates.

The adjusted base budget was submitted with an additional request of \$679,126 and one (1) additional FTE. **Attachment No. 2** shows the Commission's requested base budget along with the additional optional requests for a total request of \$1,801,120 and four (4) FTEs. The Ethics Commission is requesting nine (9) additions to the OMB adjusted base budget.

Additional requests to the adjusted base budget:

- (1) \$278,922 for an FTE as an education & communications administrator;
- (2) \$195,000 for a case management system;
- (3) \$50,000 for rules implementation;
- (4) \$50,000 for additional professional fees;
- (5) \$43,403 for commissioner and temporary salaries;
- (6) \$32,542 for workload increases;
- (7) \$19,151 for additional IT software and subscriptions;
- (8) \$7,760 for increased travel expenses; and

(9) \$2,348 for furniture.

The Executive Recommendation included three (3) FTEs and additional request Nos. 2, 4, 5, 7, 8, and 9. It also included additional funding of \$53,184 for the proposed executive salary package. **Attachment No. 3** shows the Commission's requested changes to the Executive Recommendation. The following is an itemized description and justification for optional budget items requested by the Commission:

- a. **Education & Communications Administrator FTE – \$278,922** (\$184,320 salary, \$78,312 benefits, \$10,979 IT costs, \$2,599 office equipment, and \$2,712 travel) The Education Administrator (Grade 106) will develop educational materials/curriculum in light of the Ethics Commission's and this Assembly's educational goals to help stakeholders better understand the role of the Ethics Commission. This position will develop methods and tools to effectively communicate the Ethics Commission's educational goals.

To meet its constitutional directive and best support an open, ethical, and accountable government in North Dakota, individuals (including citizens, state employees, and those who lobby in the State) need to be knowledgeable about the ethical rules in place in North Dakota's Constitution, statutes, and rules.

This FTE will develop and implement the Commission's preventative, educational initiative aimed at: (1) educating citizens of North Dakota so they can be knowledgeable about the role of the Ethics Commission, (2) effectively communicating with the citizens of North Dakota so they can understand how the ethical rules in the Constitution, statutes, and rules function, and (3) training individuals subject to the Ethics Commission's oversight how to fully comply with the rules. This role is critical to the Ethics Commission's role in supporting an open, ethical, and accountable government. Our request includes funding for four trips to various locations around the state.

An Education & Communications Administrator is also critical as legislative turn-over increases and tenure shortens with the passage of Article XV (Term Limits) of the North Dakota Constitution. There will be a high demand to provide comprehensive education about ethics rules and issues, how to manage potential conflicts of interest, and proactively addressing concerns or issues.

During the last legislative session, in response to the Commission's request for an educational coordinator, the Legislative Assembly recognized the need for preventative education, training, and guidance. As a result, the general counsel

FTE position was created with the intent the position would provide legal services to the Commission and simultaneously support the development and maintenance of a robust education and training program (33% of job duties). The executive director FTE position also provides substantial support to the Commission's educational and communication program (approximately 33% of job duties).

Based upon increasing filings, the Commission needs to shift its current resources to have the general counsel position allocate more attorney time to legal issues, including complaints, advisory opinion drafting, Commission rules, informal guidance, and counsel to the Commission. Additionally, this would shift the executive director's duties to focus on implementation of the strategic plan, including wholistic approach to rules adoption.

- b. **Case Management System - \$195,000** (\$135,000 one-time, \$60,000 ongoing)
The Commission has had a steady increase of filings since the end of 2022. As the Commission adopts new rules, filings will increase as individuals comply with the Commission's rules. Currently, Commission staff manage filings, documents received, and its investigations through SharePoint with manual entry and manual tracking. This process is inefficient and prone to human error. Whereas this process could be automated and managed through a software platform, allowing our team to focus on customer contacts.

Our initial request for a case management system was based upon a review of state procurement contract 38. Based upon that contract, we believed initial costs of \$135,000 plus a \$30,000 annual maintenance/support fee was a worst-case scenario cost to procure and maintain a case management system. In January and February 2025, demonstrations of these licensee management systems occurred under a new RFP. At that time and as the Commission learned more about case management systems used by other ethics commission, it did not feel state procurement contract 38 was an appropriate measure to estimate the continuing cost of a case management system.

A better estimate of cost can be determined by examining the cost of other state ethics commissions' case management systems. The Commission is most closely seeking a simple system, similar to the system implemented in New Mexico. The initial buildout of the New Mexico Ethics Commission's case management system happened in 2019 with a cost of \$27,000. There has been a yearly maintenance of an estimated \$45,000 to \$60,000 per year since.

The Senate approved one-time funding in the amount of \$50,000 to initially buildout the case management system. However, no funds were included for continued hosting and maintenance of the case management system. Based upon the above information, the Commission is requesting the House maintain the Senate's approval of the \$50,000 one-time funding for the buildout of a case management system plus \$50,000 per year ongoing appropriation for maintenance of the case management system.

Of note, the Texas Ethics Commission noticed a shorter duration for unresolved complaints once an effective case management system was implemented.

- c. **Rules Implementation - \$50,000** Administrative agencies that adopt rules are doing so based upon legislative directive. The authority for administrative agencies to adopt rules stems from legislative authority. This is distinct from the Ethics Commission—the Commission's rulemaking authority is directed from the constitution—not the legislative assembly.

The funding to support rules to be adopted by administrative agencies is included in the agency's budget because the direction is coming from the legislature. Therefore, by the time the agency is presenting rules for adoption to the Administrative Rules Committee, the funding is already available for the administrative agency to implement the rule(s). For the Ethics Commission, its rules are adopted pursuant to its independent, constitutional authority. To date, the only funding for rules adoption included in Commission budgets are the costs associated with publication of the notices for rulemaking.

Previous Commission-adopted rules did not require additional funds to implement and enforce. However, the same will not be the case for the rule being considered by the Commission or future rules the Commission may consider. Rules currently under consideration will require additional professional services as well as IT solutions. Therefore, the Commission is requesting \$50,000 in funds to implement Commission adopted rules. The funds should be used for rule implementation only.

- d. **Additional Professional Fees - \$50,000** The Commission has spent an average of approximately \$4,500/month for professional services since May 2023. Extrapolating those monthly costs over 24 months in the next biennium equates to approximately \$108,000 in professional services fees for the next biennium.

The amount included in the base budget is \$70,000, so there is a need for additional funds. Since there is also the possibility the Commission could be

involved in litigation, we rounded up to \$120,000 less the \$70,000 included in the base budget.

e. **Commissioner & Temporary Salaries - \$43,403**

Intern Salaries:

Beginning legislative session 2025, the Commission hosted an intern to assist in the Commission's legislative work as well as provide a UND law student an opportunity to learn about North Dakota legislative process and North Dakota government functions. For the 2025 legislative session, the Ethics Commission will receive funds through OMB's Internship Program to cover 75% of the salary costs.

As the Commission moves forward, internships will be a critical component of the Commission's workforce as the Commission has minimal staff (3) and an increasing workload. The Commission plans to offer both a summer and legislative internship experience for law students. The Commission is requesting funds to support those internships in the amount of \$28,484 in salaries and benefits (FICA).

Overtime Compensation:

With the addition of an operations administrator position in 2023, the Commission is required to comply with the Fair Labor Standards Act (FLSA), which requires the operations administrator be paid compensation for overtime. The Commission adopted an Overtime Compensation Policy in accordance with the FLSA which will require funds of \$4,778 for overtime hours during the 2025-2027 biennium.

Commissioner Salaries:

The Commission is requesting additional funds to cover salaries for Commissioners. This increase is for two reasons: (1) The Commission is holding regular monthly meetings as well as special meetings, and (2) the rate of compensation for Commissioners under N.D.C.C. §§ 54-66-04 and 54-35-10 will be increasing during the next biennium.

The Commission's 2023-2025 budget includes \$27,290 for commissioner salaries. This calculation includes compensation for regular meetings only. However, since September 2022, the Commission held 22 special meetings. Prior to September 2022, the Commission only held 2 special meetings. Funds of \$7,428 cover

commissioner salaries and benefits (FICA) for 12 additional special meetings per biennium, which is better aligned to the data from the previous 3 years.

Pursuant to N.D.C.C. § 54-66-04, Commissioners are entitled to compensation for each day necessarily spent conducting commission business in the amount provided for members of the legislative management under N.D.C.C. § 54-35-10. The compensation in N.D.C.C. § 54-35-10 will likely be increasing based upon historical data. Funds of \$2,713 cover commissioner salary increases for 24 regular meetings.

- f. **Workload Increases - \$32,542** The Commission has identified an additional \$20,208 in salaries and \$4,226 in fringe benefits to cover a salary increase for the operations administrator as a result of workload increases. In mid-2024, the Commission's executive assistant position was reclassified from grade 104 to grade 105 based upon a review of the job description and additional job duties performed. Based upon that review, HRMS reclassified the position, and the Commission assigned a new title—Operations Administrator. At that time, a pay increase did not happen because of limited agency funds. The operations administrator received a small workload pay increase in September 2024, when the position had been filled for 1 year. However, this workload increase was insufficient to account for the proportion of workload increase that occurred since 2023. In the 2025-2027 biennium, the Commission anticipates a sufficient workload increase to this position's salary.

The Commission has identified an additional \$6,762 in salaries and \$1,346 in fringe benefits to cover a salary increase for the executive director as a result of workload increases. The executive director position now oversees two full-time team members and leads the Commission's educational initiative.

- g. **Additional IT Software & Subscriptions - \$19,151** With the addition of a general counsel position, the Commission was required to procure a legal research subscription. The Commission's Westlaw subscription for the 2025-2027 costs \$7,251.

There are also additional IT costs associated with hosting interns in the Commission's office in the amount of \$3,007.

With Commission turnover this biennium, and since the previous Commissioner was not using a state computer, the Commission needed to add a state computer user. The desktop support service laptop fee for an additional laptop is \$2,700.

This laptop fee only applies when the Commission adds a hardware user, not when there is a change of commissioners.

The cost of JotForm software will be paid by agencies during the 2025-2027 biennium instead of paid by NDIT. The cost for JotForm is \$2,088.

In addition, the Commission has a shortage of \$4,105 for projected IT costs. The Commission's projected estimate for IT services is \$4,105 more than the estimate received from NDIT and OMB.

- h. **Increased Travel Costs - \$7,760** The Commission has been holding most of its monthly meetings as well as special meetings via Teams since the Spring of 2020. Although, under the circumstances it has worked well, the Commission would like to increase regular monthly meetings to an in-person meeting at least twice a year.

The Commission is a member of the Council on Government Ethics Laws (COGEL) which holds an annual convention each year. This provides our Commissioners with best practices by networking with colleagues throughout the United States. The Commission's goal is to send three Commissioners or staff to this event each year of the biennium.

- i. **Furniture - \$2,348** The Commission has identified a total requirement of \$2,348 for office furniture with \$1,073 for a privacy addition to our reception desk and \$1,275 for an additional storage cabinet.

V. Senate Appropriations Budget Changes (Attachment No. 4)

Attachment No. 4 shows amendments made by Senate Appropriations to the Executive Recommendation:

1. Ongoing (\$273,438) and one-time (\$5,484) funding was provided to add funding for an Education & Communications Administrator FTE.
2. Funding of \$276,825 for a new FTE position and estimated savings from vacant FTE positions was removed and funding of \$246,304 was added for a 2025-27 new and vacant FTE pool line item.
3. Funding of \$195,000 was reduced to \$50,000 one-time for a case management system.

The Commission requests additional changes be made by the House to meet the Commission's budget needs:

1. Workload Increases: **\$32,542** as noted above.
2. Rules Implementation: **\$50,000** as noted above.
3. Case Management System: \$50,000 one-time funding for a buildout of a case management system plus a **\$100,000 per biennium** ongoing appropriation for maintenance.

Mr. Chairman, that concludes my testimony. I will gladly stand for any questions you may have.

North Dakota Ethics Commission Strategic Plan

2023 – 2025 Biennium

Attachment #1

The North Dakota Ethics Commission (“Commission”) was created in 2018 by the passage of a constitutional amendment which added Article XIV to the North Dakota Constitution. Article XIV tasks the Commission with supporting an open, ethical, and accountable government. The mission of the Commission is to strengthen the confidence of the citizens of North Dakota in their Government by ensuring and promoting transparency and accountability.

To fulfill its constitutional duties and meet its mission, the Commission has adopted five (5) strategic initiatives for the 2023-2025 biennium. These strategic initiatives collectively integrate to create an overarching plan which can be practically implemented to enable the Commission to ensure and promote transparency and accountability.

Strategic Initiative #1: Education & Outreach

- Provide tailored education and practical training on Commission adopted rules, Article XIV of the North Dakota Constitution, and N.D.C.C. ch. 54-66 to all individuals subject to the rules and as well as the residents of North Dakota.
- Create and distribute topical, comprehensible information to help North Dakota residents learn about the role, rules, and processes of the Commission.

Strategic Initiative #2: Relationships & Communication

- Establish open lines of communications with individuals subject to Commission oversight and the public through various mediums and communication channels.
- Create meaningful opportunities for individuals subject to Commission oversight to explore the practical implications of Commission-established rules.
- Provide timely advise to assist individuals with ethical situations related to Article XIV of the North Dakota Constitution, N.D.C.C. Ch. 54-66, and Commission-established rules.

Strategic Initiative #3: Rules Review & Creation

- Conduct a thorough review of potential rules for adoption by the Commission.
- Align North Dakota governmental ethics laws and rules with up-to-date caselaw developments.
- Review currently enacted rules to consider amendments.

- Provide legislative recommendations which increase transparency and accountability in state government.

Strategic Initiative #4: Positive Work Culture

- Welcome and provide high quality internal training to new staff and commission members.
- Support continuing education of staff and commission members.
- Implement strategies that promote creativity, empowerment, engagement, and value in Commission staff and members.

Strategic Initiative #5: Meaningful Enforcement

- Encourage consistent application of rules related to transparency, corruption, elections, and lobbying.
- Ensure the complaint process is fairly and consistently administered.
- Conduct thorough investigations of matters brought before the Commission.

**ND Ethics Commission - SB 2004
2025-2027 Agency Request**

Attachment #2

| SUMMARIZED | | | | | |
|------------------------------|---------------------------|---------------------------|---------------------------|-------------------------------|------------------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| Operating Expenses | \$ 312,893.00 | \$ 185,833.00 | \$ 194,546.00 | \$ 340,549.00 | \$ 535,095.00 |
| Totals | \$ 1,138,242.00 | \$ 1,041,374.00 | \$ 1,121,994.00 | \$ 679,126.00 | \$ 1,801,120.00 |
| FTEs | 3 | 3 | 3 | 1 | 4 |

(1) The OMB 2025-27 Adjusted Base Budget removed one time funding and included \$71,907 for restored New & Vacant FTE Pool and \$8,713 in NDIT rate increases.

| DETAILED | | | | | |
|---|---------------------------|---------------------------|---------------------------|-------------------------------|------------------------------------|
| | (1) | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Salaries and Benefits | | | | | |
| Salaries - Permanent | \$ 519,587.00 | \$ 570,483.00 | \$ 642,390.00 | \$ 184,320.00 | \$ 826,710.00 |
| Salaries - Other | \$ 27,290.00 | \$ 34,426.00 | \$ 34,426.00 | \$ 42,683.00 | \$ 77,109.00 |
| Temporary Salaries | \$ 50,000.00 | \$ - | \$ - | \$ 33,262.00 | \$ 33,262.00 |
| Fringe Benefits (FTE) | \$ 228,472.00 | \$ 250,632.00 | \$ 250,632.00 | \$ 78,312.00 | \$ 328,944.00 |
| Total Salaries and Benefits | \$ 825,349.00 | \$ 855,541.00 | \$ 927,448.00 | \$ 338,577.00 | \$ 1,266,025.00 |
| FTE's | 3 | 3 | 3 | 1 | 4 |
| | | | | | |
| | Agency 2023-2025 | Agency 2025-2027 | OMB Adjusted | 2025-2027 | |
| | <u>Base Budget</u> | <u>Base Budget</u> | <u>2025-2027</u> | <u>Agency Optional</u> | <u>Agency 2025-2027</u> |
| | | | <u>Base Budget</u> | <u>Budget Changes</u> | <u>Total Budget Request</u> |
| Operating Expenses | | | | | |
| Travel | \$ 22,016 | \$ 22,016 | \$ 22,016 | \$ 10,472.00 | \$ 32,488.00 |
| Supplies - IT Software | \$ - | \$ - | \$ - | \$ 60,000.00 | \$ 60,000.00 |
| Professional Supplies | \$ 500 | \$ 896 | \$ 896 | \$ - | \$ 896.00 |
| Miscellaneous Supplies | \$ 500 | \$ - | \$ - | \$ - | \$ - |
| Office Supplies | \$ 2,500 | \$ 2,500 | \$ 2,500 | \$ - | \$ 2,500.00 |
| Printing | \$ 200 | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Postage | \$ - | \$ 300 | \$ 300 | \$ - | \$ 300.00 |
| Electrical | \$ - | \$ - | \$ - | \$ - | \$ - |
| IT Equipment under \$5000 | \$ 2,300 | \$ 1,070 | \$ 1,070 | \$ 850.00 | \$ 1,920.00 |
| IT Equipment / Software \$5000+ | \$ - | \$ - | \$ - | \$ 135,000.00 | \$ 135,000.00 |
| Insurance | \$ 250 | \$ 403 | \$ 403 | \$ - | \$ 403.00 |
| Rentals/Leases-Equip & Other | \$ 3,552 | \$ 3,547 | \$ 3,547 | \$ - | \$ 3,547.00 |
| Rentals/Leases - Bldg/Land | \$ 52,416 | \$ 23,990 | \$ 23,990 | \$ - | \$ 23,990.00 |
| IT - Data Processing | \$ 48,939 | \$ 41,537 | \$ 50,250 | \$ 27,864.00 | \$ 78,114.00 |
| IT - Communications | \$ 1,920 | \$ 5,304 | \$ 5,304 | \$ 1,416.00 | \$ 6,720.00 |
| Professional Development | \$ 3,800 | \$ 4,490 | \$ 4,490 | \$ - | \$ 4,490.00 |
| Office Equipment / Furniture | \$ - | \$ - | \$ - | \$ 4,947.00 | \$ 4,947.00 |
| Operating Fees and Services | \$ 7,000 | \$ 9,480 | \$ 9,480 | \$ - | \$ 9,480.00 |
| Office Move / Remodel 1X | \$ 25,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services 1X | \$ 72,000 | \$ - | \$ - | \$ - | \$ - |
| Fees - Professional Services | \$ 20,000 | \$ 20,000 | \$ 20,000 | \$ - | \$ 20,000.00 |
| Fees - Professional Services (contingent) | \$ 50,000 | \$ 50,000 | \$ 50,000 | \$ 50,000.00 | \$ 100,000.00 |
| Rules Implementation (contingent) | \$ - | \$ - | \$ - | \$ 50,000.00 | \$ 50,000.00 |
| Totals Operating Expenses | \$ 312,893 | \$ 185,833 | \$ 194,546 | \$ 340,549.00 | \$ 535,095.00 |
| Agency Total | \$ 1,138,242 | \$ 1,041,374 | \$ 1,121,994 | \$ 679,126.00 | \$ 1,801,120.00 |
| TOTAL AUTHORIZED FTEs | 3 | 3 | 3 | 1 | 4 |

2025-2027 Agency Requested w/Executive Recommendation Changes

Attachment #3

SUMMARIZED

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Agency Requested Change Details</u> |
|-----------------------|--|--|---|--|--|
| Salaries and Benefits | \$ 1,031,894.00 | \$ (7,859.00) | \$ 295,174.00 | \$ 1,319,209.00 | Itemized below |
| Operating Expenses | \$ 468,805.00 | \$ - | \$ 57,817.00 | \$ 526,622.00 | Itemized below |
| Totals | \$ 1,500,699.00 | \$ (7,859.00) | \$ 352,991.00 | \$ 1,845,831.00 | |
| FTEs | 3 | 0 | 1 | 4 | |

DETAILED

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Agency Requested Change Details</u> |
|------------------------------------|--|--|---|--|---|
| <u>Salaries and Benefits</u> | | | | | |
| Salaries - Permanent | \$ 678,107.00 | \$ (6,521.00) | \$ 184,320.00 | \$ 855,906.00 | Education Administrator - Salary Workload Increases - OA: \$20,208 Salary, \$4,226 |
| Salaries - Other | \$ 44,567.00 | | \$ 32,542.00 | \$ 77,109.00 | Benefits, ED: \$6,762 Salary, \$1,346 Benefits |
| Temporary Salaries | \$ 33,262.00 | | \$ - | \$ 33,262.00 | |
| Fringe Benefits (FTE) | \$ 275,958.00 | \$ (1,338.00) | \$ 78,312.00 | \$ 352,932.00 | Education Administrator - Benefits |
| Total Salaries and Benefits | \$ 1,031,894.00 | \$ (7,859.00) | \$ 295,174.00 | \$ 1,319,209.00 | |
| FTEs | 3 | 0 | 1 | 4 | |

| | <u>2025-2027 Burgum Recommendation</u> | <u>2025-2027 Armstrong Change Amount</u> | <u>Agency Requested Change Amount</u> | <u>Agency 2025-2027 Total Budget Request</u> | <u>Details</u> |
|---|--|--|---|--|---|
| <u>Operating Expenses</u> | | | | | |
| Travel | \$ 29,776.00 | \$ - | \$ 2,712.00 | \$ 32,488.00 | Educational Travel |
| Supplies - IT Software | \$ 60,000.00 | \$ - | \$ - | \$ 60,000.00 | |
| Professional Supplies | \$ 896.00 | \$ - | \$ - | \$ 896.00 | |
| Miscellaneous Supplies | \$ - | \$ - | \$ - | \$ - | |
| Office Supplies | \$ 2,500.00 | \$ - | \$ - | \$ 2,500.00 | |
| Printing | \$ 300.00 | \$ - | \$ - | \$ 300.00 | |
| Postage | \$ 300.00 | \$ - | \$ - | \$ 300.00 | |
| Electrical | \$ - | \$ - | \$ - | \$ - | |
| IT Equipment under \$5000 | \$ 1,070.00 | \$ - | \$ 850.00 | \$ 1,920.00 | Education Administrator - Printer |
| IT Equipment / Software \$5000+ | \$ 135,000.00 | \$ - | \$ - | \$ 135,000.00 | |
| Insurance | \$ 403.00 | \$ - | \$ - | \$ 403.00 | |
| Rentals/Leases-Equip & Other | \$ 3,547.00 | \$ - | \$ - | \$ 3,547.00 | |
| Rentals/Leases - Bldg/Land | \$ 23,990.00 | \$ - | \$ - | \$ 23,990.00 | |
| IT - Data Processing (IT Package) | \$ 68,705.00 | \$ - | \$ 9,409.00 | \$ 78,114.00 | Education Administrator IT - Data |
| IT - Communications | \$ 6,000.00 | \$ - | \$ 720.00 | \$ 6,720.00 | Education Administrator IT - Communications |
| Professional Development | \$ 4,490.00 | \$ - | \$ - | \$ 4,490.00 | |
| Office Equipment / Furniture | \$ 2,348.00 | \$ - | \$ 2,599.00 | \$ 4,947.00 | Education Administrator - Desk |
| Operating Fees and Services | \$ 9,480.00 | \$ - | \$ - | \$ 9,480.00 | |
| Office Move / Remodel 1X | \$ - | \$ - | \$ - | \$ - | |
| Fees - Professional Services | \$ 20,000.00 | \$ - | \$ - | \$ 20,000.00 | |
| Fees - Professional Services (contingent) | \$ 100,000.00 | \$ - | \$ - | \$ 100,000.00 | |
| Rules Implementation (contingent) | \$ - | \$ - | \$ 50,000.00 | \$ 50,000.00 | Contingency - Rules Implementation |
| Totals Operating Expenses | \$ 468,805.00 | \$ - | \$ 66,290.00 | \$ 535,095.00 | |
| | | | | \$ - | |
| Agency Total | \$ 1,500,699.00 | \$ (7,859.00) | \$ 361,464.00 | \$ 1,854,304.00 | |
| Total FTEs | 3 | 0 | 1 | 4 | |

Senate Changes to Executive Recommendation

Attachment #4

| Salaries and Benefits | Code | 1/ Senate | | |
|------------------------------------|--------|----------------------------------|----------------------|------------------------|
| | | 2025-27 Executive Recommendation | Change Amount | Senate Version |
| Salaries - Permanent | 511000 | \$ 599,679.00 | \$ 184,320.00 | \$ 783,999.00 |
| Salaries - Other | 512000 | \$ 44,567.00 | \$ - | \$ 44,567.00 |
| Temporary Salaries | 513000 | \$ 33,262.00 | \$ - | \$ 33,262.00 |
| Fringe Benefits (FTE) | 516000 | \$ 274,620.00 | \$ 78,312.00 | \$ 352,932.00 |
| 23-25 Vacant FTE Pool | | \$ 11,109.00 | \$ - | \$ 11,109.00 |
| 23-25 New FTE Pool | | \$ 60,798.00 | \$ - | \$ 60,798.00 |
| 25-27 Vacant FTE Pool | | \$ - | \$ (14,193.00) | \$ (14,193.00) |
| 25-27 New FTE Pool | | \$ - | \$ (262,632.00) | \$ (262,632.00) |
| Funding Pool | | \$ - | \$ 246,304.00 | \$ 246,304.00 |
| Total Salaries and Benefits | | \$ 1,024,035.00 | \$ 232,111.00 | \$ 1,256,146.00 |
| FTE's | | 3 | 1 | 4 |

1/ (1) Funding of \$276,825 for a new FTE positions and estimated savings from vacant FTE positions is removed and funding of \$246,304 is added for a 2025-27 new and vacant FTE pool line item.

1/ (2) Ongoing (\$273,438) and one-time (\$5,484) funding is provided to add a communication and education FTE position. Salary \$184,320, Benefits \$78,312, IT Data \$7,374, \$2,035 1X, Travel 2,712, Furniture \$2,599 1X, IT Equip \$850 1X, IT Comm \$720.

| Operating Expenses | | 1/ Senate | | |
|---------------------------------|--------|----------------------------------|------------------------|------------------------|
| | | 2025-27 Executive Recommendation | Change Amount | Senate Version |
| Travel | 521000 | \$ 29,776.00 | \$ 2,712.00 | \$ 32,488.00 |
| Supplies - IT Software | 531000 | \$ 60,000.00 | \$ (60,000.00) | \$ - |
| Supply/Material - Professional | 532000 | \$ 896.00 | \$ - | \$ 896.00 |
| Office Supplies | 536000 | \$ 2,500.00 | \$ - | \$ 2,500.00 |
| Postage | 541000 | \$ 300.00 | \$ - | \$ 300.00 |
| Printing | 542000 | \$ 300.00 | \$ - | \$ 300.00 |
| IT Equipment Under \$5000 | 551000 | \$ 1,070.00 | \$ 850.00 | \$ 1,920.00 |
| Office Equipment & Furniture | 553000 | \$ 2,348.00 | \$ 2,599.00 | \$ 4,947.00 |
| Insurance | 571000 | \$ 403.00 | \$ - | \$ 403.00 |
| Rentals/Leases-Equip & Other | 581000 | \$ 3,547.00 | \$ - | \$ 3,547.00 |
| Rentals/Leases - Bldg/Land | 582000 | \$ 23,990.00 | \$ - | \$ 23,990.00 |
| IT - Data Processing | 601000 | \$ 68,705.00 | \$ 9,409.00 | \$ 78,114.00 |
| IT - Communications | 602000 | \$ 6,000.00 | \$ 720.00 | \$ 6,720.00 |
| Professional Development | 611000 | \$ 4,490.00 | \$ - | \$ 4,490.00 |
| Operating Fees and Services | 621000 | \$ 9,480.00 | \$ - | \$ 9,480.00 |
| Professional Fees and Services | 623000 | \$ 120,000.00 | \$ - | \$ 120,000.00 |
| IT Equip / Software Over \$5000 | 693000 | \$ 135,000.00 | \$ (85,000.00) | \$ 50,000.00 |
| Total Operating Expenses | | \$ 468,805.00 | \$ (128,710.00) | \$ 340,095.00 |
| Agency Total | | \$ 1,492,840.00 | \$ 103,401.00 | \$ 1,596,241.00 |
| TOTAL AUTHORIZED FTEs | | 3 | 1 | 4 |

1/ (2) Ongoing (\$273,438) and one-time (\$5,484) funding is provided to add a communication and education FTE position. Salary \$184,320, Benefits \$78,312, IT Data \$7,374, \$2,035 1X, Travel 2,712, Furniture \$2,599 1X, IT Equip \$850 1X, IT Comm \$720.

1/ (4) Case management system is reduced from \$195,000 to \$50,000.

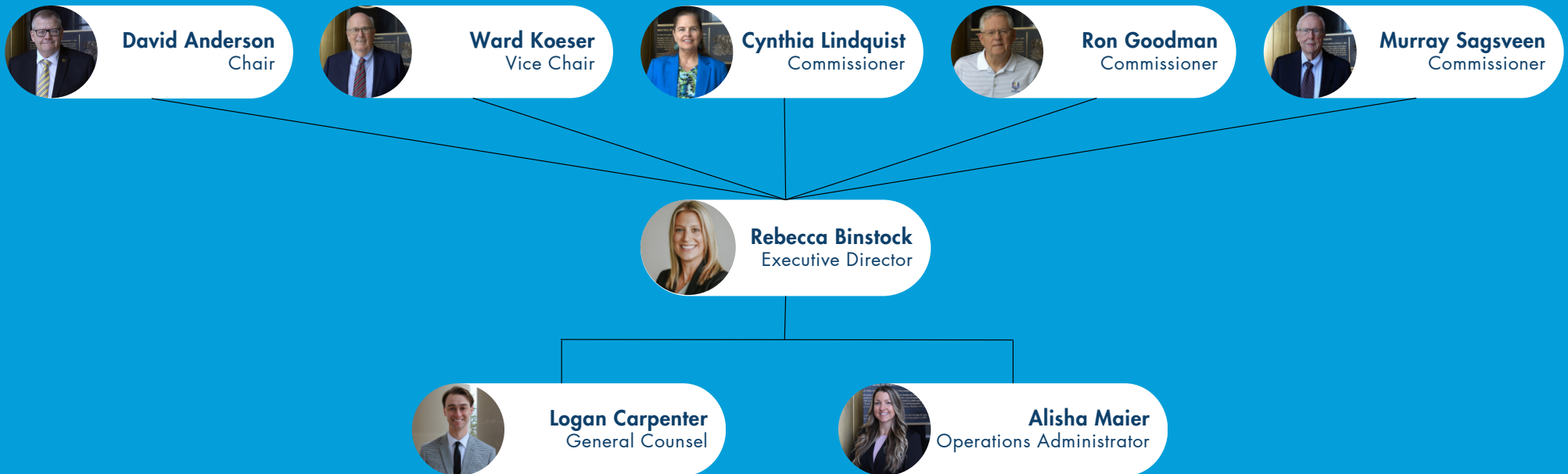
North Dakota Ethics Commission Report

Testimony presented by
Executive Director Rebecca Binstock
House Appropriations - Education & Environment
Division
March 13, 2025



ND | ETHICS
COMMISSION

Organizational Chart



Strategic Initiatives

To fulfill its constitutional duties and meet its mission, the Commission has adopted five (5) strategic initiatives.

- 1. Education & Outreach**
- 2. Relationships & Communication**
- 3. Rules Review & Creation**
- 4. Positive Work Culture**
- 5. Meaningful Enforcement**

**A Historical
Exploration of
Ethical Conflicts**



**A Practical
Application of
Conflict Rules**



**Navigating the
Complaint Process**



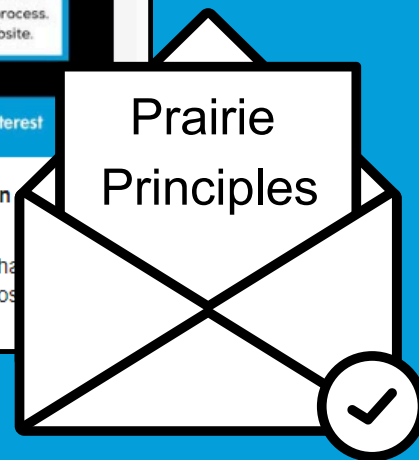
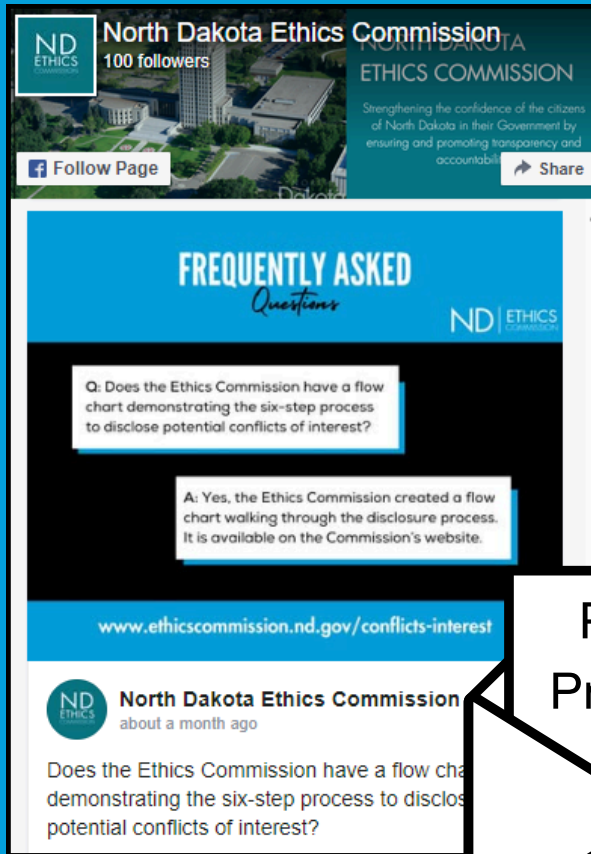
**Lobbyist Gifting,
Naughty or Nice?**



**28
Education Sessions
1,000
North Dakotans**



Relationships & Communication



Quarterly Newsletter
Distribution Lists
Facebook & YouTube
Website Overhaul

Rules Review & Creation



The Complaint Process

Lobbyist Gifts

Appearance of Bias

Conflicts of Interest

Positive Work Culture



Community Engagement

Staff positions filled from quality applicant pools

Executive Assistant ➡ Operations Administrator



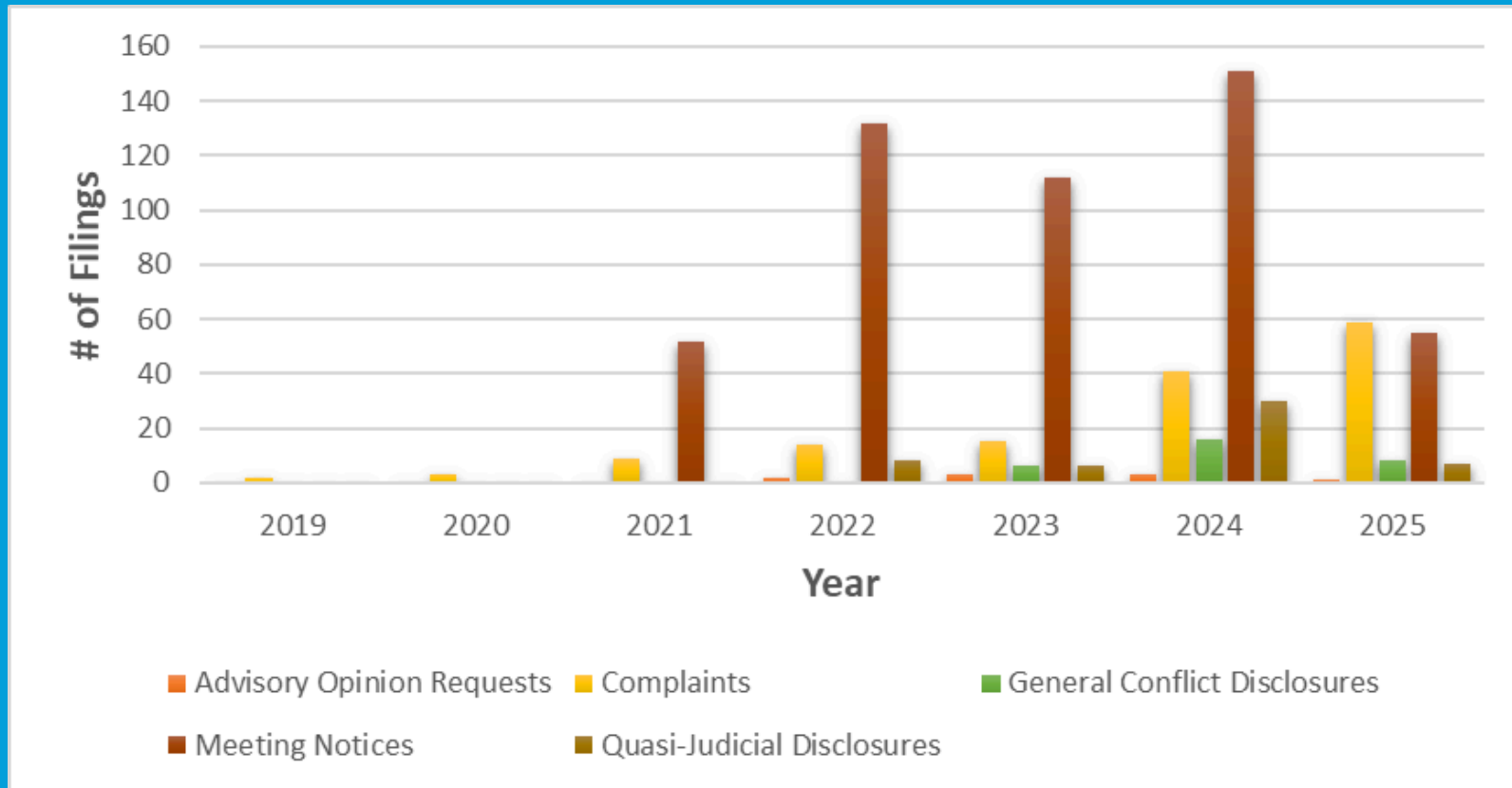
Strong applicants to serve as commissioners

UND Law Legislative Intern

No vacant positions



Activity Levels



(as of March 10, 2025)

Activity Levels

| Level of Activity - Statistical Data | | | | | | | | | | | | | | | | | |
|--------------------------------------|---|------|---|------|---|------|---|------|---|------|---|------|---|------|---|-------|---|
| | ▼ | 2019 | ▼ | 2020 | ▼ | 2021 | ▼ | 2022 | ▼ | 2023 | ▼ | 2024 | ▼ | 2025 | ▼ | Total | ▼ |
| Advisory Opinion Requests | | 0 | | 0 | | 0 | | 2 | | 3 | | 3 | | 1 | | 9 | |
| Complaints | | 2 | | 3 | | 9 | | 14 | | 15 | | 41 | | 59 | | 143 | |
| General Conflict Disclosures | | 0 | | 0 | | 0 | | 0 | | 6 | | 16 | | 8 | | 30 | |
| Meeting Notices | | 0 | | 0 | | 52 | | 132 | | 112 | | 151 | | 55 | | 502 | |
| Quasi-Judicial Disclosures | | 0 | | 0 | | 0 | | 8 | | 6 | | 30 | | 7 | | 51 | |
| Totals | | 2 | | 3 | | 61 | | 156 | | 142 | | 241 | | 130 | | 735 | |
| Meetings | | | | | | | | | | | | | | | | | |
| Public Administrative Hearings | | 0 | | 2 | | 1 | | 2 | | 0 | | 2 | | 0 | | 7 | |
| Regular Meetings | | 3 | | 10 | | 8 | | 12 | | 10 | | 12 | | 2 | | 57 | |
| Special Meetings | | 2 | | 0 | | 0 | | 5 | | 12 | | 3 | | 2 | | 24 | |
| Total All Meetings | | 5 | | 12 | | 9 | | 19 | | 22 | | 17 | | 4 | | 88 | |

(as of March 10, 2025)

Complaint Resolutions

| Year | Total Complaints Received | Summarily Dismissed | | Informally Resolved | | Pending | |
|---------------|---------------------------|---------------------|------------|---------------------|-----------|-----------|------------|
| 2019 | 2 | 2 | 100% | 0 | 0% | 0 | 0% |
| 2020 | 3 | 3 | 100% | 0 | 0% | 0 | 0% |
| 2021 | 9 | 9 | 100% | 0 | 0% | 0 | 0% |
| 2022 | 14 | 5 | 36% | 1 | 7% | 8 | 57% |
| 2023 | 15 | 11 | 73% | 1 | 7% | 3 | 20% |
| 2024 | 41 | 22 | 54% | 0 | 0% | 19 | 46% |
| 2025 | 59 | 3 | 5% | 0 | 0% | 56 | 95% |
| Totals | 143 | 55 | 38% | 2 | 1% | 86 | 60% |

Note: This table categorizes resolution by the year in which the complaint was filed and does not necessarily reflect the year in which the resolution occurred. Data as of March 10, 2025.

2023-2025 Budget Overview

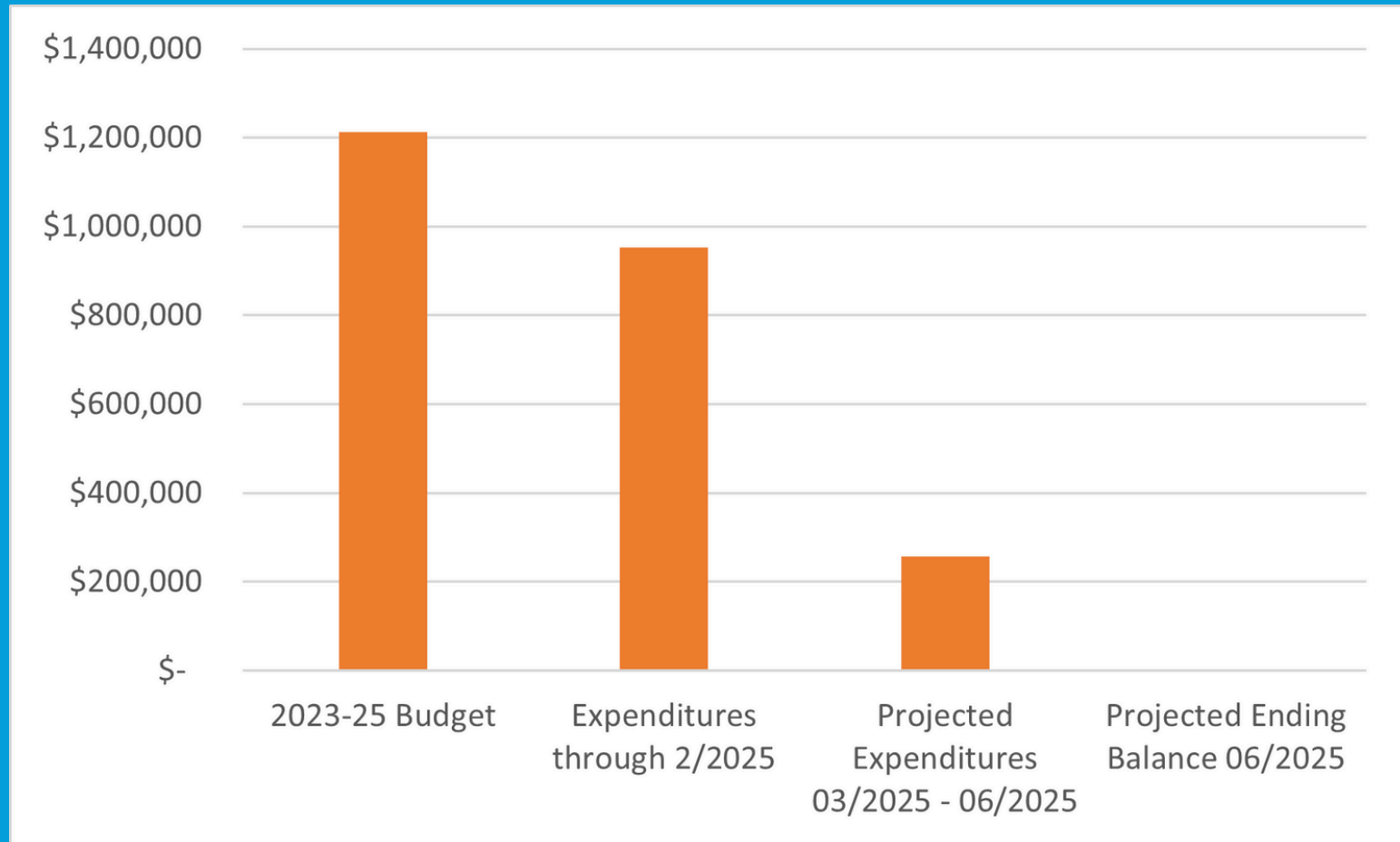
- **2023-2025 Legislative Appropriation (SB 2024) = \$1,138,242**

Additional Appropriations:

- FTE Funding Pool (SB 2015 Section 22) = + \$60,798
- Employer Retirement Contribution Pool (SB 2015 Section 23) = + \$1,957
- State Government Student Internship Program Spending Authority = + \$12,472

-
- **2023-2025 Available Appropriations = \$1,213,489**

2023 - 2025 Budget Status



2025-2027 Budget Request

| | |
|--|------------------------|
| • OMB Adjusted Base Budget = | \$1,121,994 |
| ▪ Education & Communications Administrator | + \$278,922 |
| ▪ Case Management System | + \$195,000 (\$50,000) |
| ▪ Rules Implementation | + \$50,000 |
| ▪ Additional Professional Fees | + \$50,000 |
| ▪ Commissioner and Temporary Salaries | + \$43,403 |
| ▪ Workload Increases | + \$32,542 |
| ▪ Additional IT Software and Subscriptions | + \$19,151 |
| ▪ Increased Travel Expenses | + \$7,760 |
| ▪ Furniture | + \$2,348 |
| <hr/> | |
| • 2025 - 2027 Appropriations Request = | \$1,801,120 |

*****Total in white passed by Senate*****

Education & Communication Administrator

FTE position will develop & implement the Commission's
preventative, educational initiatives.

Passed by Senate

- Salary = **\$184,320**
- Benefits = **\$ 78,312**
- IT Costs = **\$ 10,979**
- Office Equipment = **\$ 2,599**
- Travel = **\$ 2,712**

Total: + \$278,922

Case Management System

Due to steadily increasing filings, file and case management need to be automated and managed through a platform.

\$50,000 passed by Senate

| | | |
|-------------------------|------------------|---------------------------|
| • One-Time Funding = | \$135,000 | Total: + \$195,000 |
| • Ongoing Maintenance = | \$ 60,000 | |

Rules Implementation Costs

For the Commission, rules are adopted pursuant to its independent, constitutional authority.

There is currently no funds to implement rules beyond publication of notices, but they likely will be needed in the future as the Commission adopts rules.

*** Funds earmarked for this purpose only. ***

Total: + \$50,000

Commissioner & Temporary Salaries

Beginning in 2025, the Commission will collaborate with the UND School of Law to hire summer and legislative legal interns.

Passed by Senate

- Intern Pay = \$ 28,484
- Overtime Compensation = \$ 4,778
- Commissioner Salary = \$ 10,141

Total + \$43,403

Workload Increases

- Commission identified an additional **\$20,208** in salaries and **\$4,226** in fringe benefits to cover a salary increase for the operations administrator as a result of workload increases.
- Commission has identified an additional **\$6,762** in salaries and **\$1,346** in fringe benefits to cover a salary increase for the executive director as a result of workload increases.

+ Total: \$32,542



*Thank
you!*

ethicscommission@nd.gov

or

701.328.5325

ND | **ETHICS**
COMMISSION

SB 2004

March 18,2025

North Dakota Ethics Commission

Mr. Chairman and members of the committee, my name is Kathy Tweeten and I support SB 2004.

The Commissioners and the current Ethics Commission staff have worked extremely hard, and in a relatively short time, to create a framework and details from which we can all use for effective good government.

The educational programs and other methods used to inform citizens, lobbyists, and you and me to better understand the function and responsibilities of the commission should be applauded. They continue to do an excellent job of sharing even with the huge increase in their workload. Additional staff are definitely needed.

I have personal experience with the staff. I have attended a few of their presentations and found the staff lawyers very knowledgeable and professional. If you have heard anything to the contrary, it is disinformation to intentionally impugn their competence and credibility. I have also had the displeasure of filing a complaint. I did not do this lightly. But like you, I don't like being lied to and deceived. I won't say more because the case is still pending. But what I can say is that I am totally satisfied with the assistance and quality of the service I received from the staff. They know what they are doing They gained my trust and they exceeded my expectations, and I do not impress easily.

In summary, the North Dakota Ethics Commission and staff are doing a difficult job with insufficient resources. Please fund and staff appropriately.

Mr. Chairman and committee members, please support SB 2004.
Thank you!

Education and Environment Division – House Appropriations Committee**Testimony on Senate Bill 2004****April 18, 2025**

Chairman Nathe and members of this subcommittee. I am Murray Sagsveen, a member of the North Dakota Ethics Commission.

The Governor, Senate majority leader, and Senate minority leader appointed me to the Ethics Commission in September 2024, so my experience is based on several meetings over about six months. However, I do have several observations:

First, the statutory process is too cumbersome, so it takes far too long to move a complaint to conclusion. During my first meeting in October, I learned that proposed legislation (later House Bill 1360) and draft rules were designed to streamline and shorten the process; however, the House defeated that bill. The Ethics Commission will now explore possible administrative and regulatory steps, within the statutory constraints, to expedite the complaint resolution process.

Second, Ethics Commission staff estimate there are about 2,500-3,000 individuals who should participate in ethics-related training – legislators, lobbyists, public officials and others. My experience, having recently served on a governor-appointed committee, is that orientation sessions (if any) do not focus on ethics related issues. Ethics training and education is essential to avoid inadvertent ethical violations and to maintain the ethical conduct of state government.

Third, there is insufficient staff to process complaints, conduct investigations, correspond with complainants and respondents, draft orders, staff commission meetings, and provide programs to educate individuals about ethical constitutional, statutory, and rule provisions. Currently, the executive director and general counsel try to balance their time between the complaint and educational processes. Therefore, the Commission is requesting one additional FTE to enhance both the complaint process and the educational program.

Fourth, and finally, the budget should include funds for unanticipated legal challenges. At two different hearings this session, I heard a lobbyist warn that one provision of Article XIV of the constitution (the ethics provision) may be challenged.

Thank you. I will answer any questions committee members may have.

msagsveen@nd.gov

701-426-1905



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

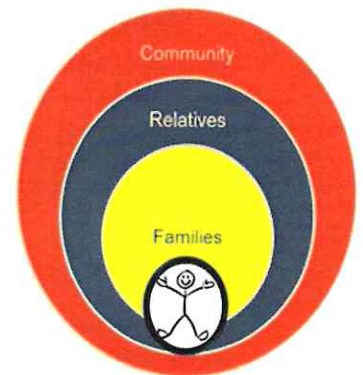
| | Armstrong Executive Budget | | | | Senate Version | | | | Senate Compared to Executive Budget | | | |
|--|----------------------------|--------------|-------------|-------------|----------------|--------------|-------------|-------------|-------------------------------------|--------------|-------------|------------|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | Increase (Decrease) | | | |
| | | | | | | | | | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 0.00 | \$0 | \$0 | \$0 |
| 2025-27 Ongoing Funding Changes | | | | | | | | | | | | \$0 |
| Salary increase | | \$35,168 | | \$35,168 | | \$35,168 | | \$35,168 | | | | 0 |
| Health insurance increase | | 18,016 | | 18,016 | | 18,016 | | 18,016 | | | | 0 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 | | 60,798 | | 60,798 | | | | 0 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 | | 11,109 | | 11,109 | | | | 0 |
| 2025-27 new and vacant FTE pool | | | | 0 | | (30,521) | | (30,521) | | | | (30,521) |
| Education and communication FTE | | | | 0 | 1.00 | 273,438 | | 273,438 | 1.00 | 273,438 | | 273,438 |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 | | 43,403 | | 43,403 | | | | 0 |
| IT rate increases | | 8,713 | | 8,713 | | 8,713 | | 8,713 | | | | 0 |
| IT software and subscriptions | | 19,151 | | 19,151 | | 19,151 | | 19,151 | | | | 0 |
| Case management system | | 60,000 | | 60,000 | | | | 0 | | (60,000) | | (60,000) |
| Professional fees | | 50,000 | | 50,000 | | 50,000 | | 50,000 | | | | 0 |
| Travel costs | | 7,760 | | 7,760 | | 7,760 | | 7,760 | | | | 0 |
| Total ongoing funding changes | 0.00 | \$314,118 | \$0 | \$314,118 | 1.00 | \$497,035 | \$0 | \$497,035 | 1.00 | \$182,917 | \$0 | \$182,917 |
| One-Time Funding Items | | | | | | | | | | | | |
| Case management system one-time costs | | \$135,000 | | \$135,000 | | \$50,000 | | \$50,000 | | (\$85,000) | | (\$85,000) |
| Office furniture | | 2,348 | | 2,348 | | 2,348 | | 2,348 | | | | 0 |
| New position one-time costs | | | | 0 | | 5,484 | | 5,484 | | 5,484 | | 5,484 |
| Total one-time funding changes | 0.00 | \$137,348 | \$0 | \$137,348 | 0.00 | \$57,832 | \$0 | \$57,832 | 0.00 | (\$79,516) | \$0 | (\$79,516) |
| Total Changes to Base Level Funding | 0.00 | \$451,466 | \$0 | \$451,466 | 1.00 | \$554,867 | \$0 | \$554,867 | 1.00 | \$103,401 | \$0 | \$103,401 |
| 2025-27 Total Funding | 3.00 | \$1,492,840 | \$0 | \$1,492,840 | 4.00 | \$1,596,241 | \$0 | \$1,596,241 | 1.00 | \$103,401 | \$0 | \$103,401 |
| Federal funds included in other funds | | | | \$0 | | | | | \$0 | | | |
| Total ongoing changes - Percentage of base level | 0.0% | 30.2% | N/A | 30.2% | 33.3% | 47.7% | N/A | 47.7% | N/A | N/A | N/A | N/A |
| Total changes - Percentage of base level | 0.0% | 43.4% | N/A | 43.4% | 33.3% | 53.3% | N/A | 53.3% | N/A | N/A | N/A | N/A |

About ICWA Courts

Indian Child Welfare Act (ICWA) Courts

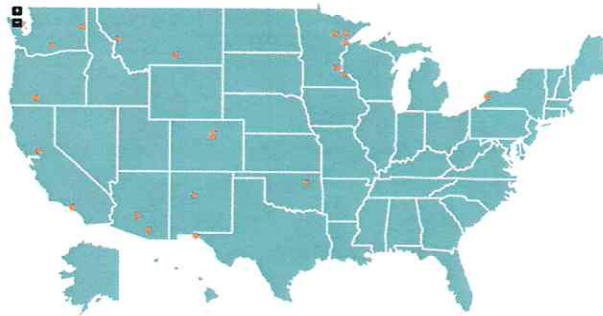
The five principles of ICWA Courts that frame the “gold standard of child welfare” are:

1. Judicial leadership;
2. ICWA data collection;
3. ICWA training (spirit and letter of law);
4. Tribal stakeholder collaboration; and
5. Gold Standard lawyering and social work.



ICWA Court Map

Below is a map of the current ICWA Courts. For more information about these courts or to be added to the map, please see the contact information below.



Promising Outcomes:

- 📍 Quicker time to reunification with caregivers
- 📍 Children are placed with relatives at earlier stages of CHIPS/TPR Case
- 📍 Increased tribal presence
- 📍 Parents at hearings more frequently and earlier in the stage of the case
- 📍 Increased collaboration and relationship building
- 📍 Authentic engagement with tribes
- 📍 Enhanced inclusive and diverse cultural practices
- 📍 Decrease in continuance requests due to lack of availability or compliance with ICWA

ND ICWA Efforts Roadmap

2009-2012

UND/CIP ICWA Compliance Audit –

Research team reviewed findings and orders in CHIPS/TPR cases in Odyssey.

2016

Final UND/CIP ICWA Compliance Audit Report

Multi-year audit helped to clarify areas in need of improvement.

2016

ICWA Implementation Partnership Grant Awarded

Grant partners included the Native American Training Institute, tribes, courts and child welfare.

2019

QEW Recruitment and Training

Native American Training Institute (NATI) provided training to increase QEW presence in court hearings.

2021 -2023

Adoption of ICWA in North Dakota Century Code

NDCC 27-19.1

2015

UND/Casey Family Program Audit

Research team reviewed Grand Forks County Social Services files for ICWA compliance.

2016

Creation of ND ICWA Hard Card and Desk Reference Guide

Hard Card and Bench Guide was widely circulated and continues to be utilized by stakeholders.

2018

ICWA Inquiry Form

Creation of a universal ICWA inquiry form to be utilized statewide by caseworkers when reaching out to tribes.

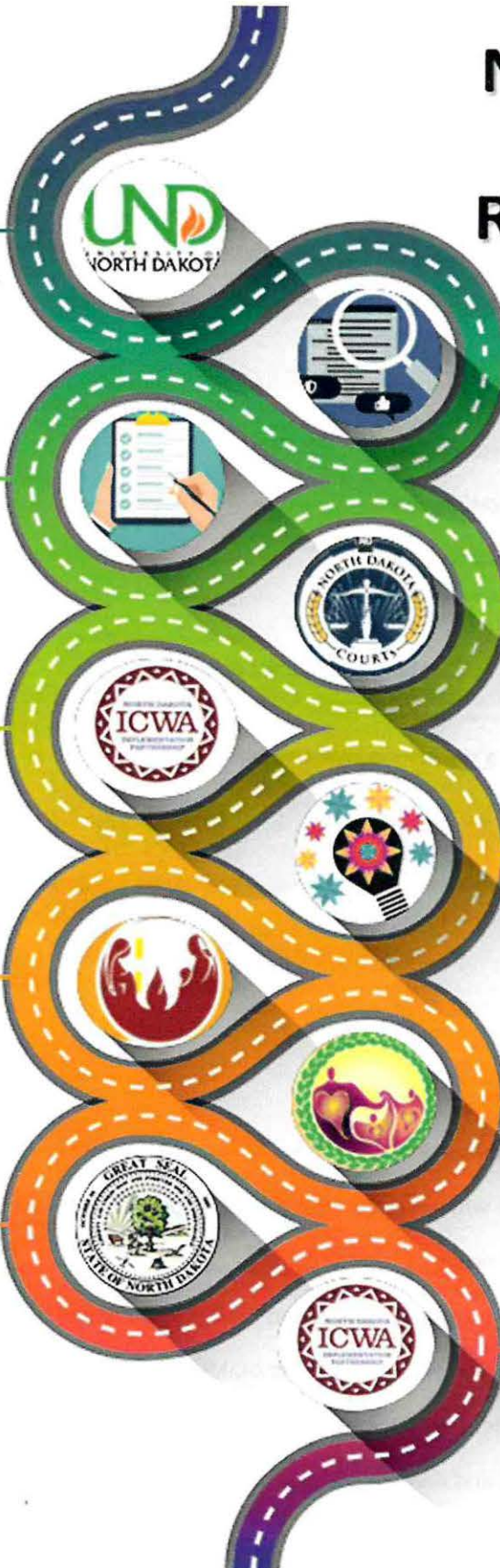
2020

ICWA Family Preservationist (IFP)

IFP model developed and implemented.

2023

2nd ICWA Implementation Partnership Grant Awarded



2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2004
4/2/2025

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission.

10:06 a.m. Chairman Nathe called the meeting to order.

Members present: Chairman Nathe, Vice Chairman Swiontek, Representatives Louser, Martinson, Richter, Sanford and Hanson.

Discussion Topics:

- Outdated Rules
- Attorney General Office usage

10:06 Senator Mathern, testified in favor and presented testimony #44563.

10:19 a.m. Representative Louser, explained long sheet, previous testimony #42802 from 3/18/2025.

10:21 a.m. Rebecca Binstock, Executive Director, North Dakota Ethics Commission, answered questions and testified in favor.

11:02 a.m. Alisha Maier, Ethics Commission Operations Administrator, answered questions.

11:03 a.m. Chairman Nathe adjourned the meeting.

Steven Riehl, Committee Clerk

I have attached a ***projected*** organizational chart for the ethics commission. This organizational chart is based upon the structure of the majority of other state ethics commissions. Most commissions have commissioners, with an executive director. The operations of commissions are typically divided into operations section and a legal section. The legal section is then split between compliance (preventative) and enforcement. The attached projected organizational chart is based on that basic structure. I would add, North Dakota's Ethics Commission has the smallest staff of the constitutional ethics commissions. Rhoda Island and New Mexico are the other smallest, with approximately 9 – 14 staff.

To create this organization, the Commission would need an additional 4-5 FTEs, with an additional cost of approximately \$1.4 - \$1.5 million per biennium.

Below is a breakdown of FTEs:

- 5 Commissioners = appointed by the Governor, Senate Majority Leader, and Senate Minority Leader
- Executive Director = oversees the legal and operations sections of the Commission and implements the strategic initiatives of the Commission

Legal Section:

- Lead/General Counsel = provides counsel to the Commission and oversees both the compliance and enforcement divisions of legal work
- Compliance Counsel = provides legal counsel regarding advisory opinions and informal guidance issued by the commission. Works closely with the education and communications administrator to ensure educational initiatives are in accordance with rules, laws, and opinions issued.
- Educational/Communication Administrator = Manages and implements all aspects of the Commission's communication and educational initiatives to provide stakeholders with information
- Enforcement Counsel = investigate complaints and represent the commission in litigation
- Paralegal = Assists Enforcement/Public Integrity Counsel with; focused on investigation and obtaining information, documents, and interviews during the investigative process.

Operations Section:

- Operations Manager = oversees procurement, records retention, IT needs, monthly budget
- Administrative Assistant = reviews and logs filings received by the Commission, focusing on the case management system, and assists operations manager and legal section with scheduling and other administrative work.

April 1, 2025

Sixty-ninth
Legislative Assembly
of North Dakota**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT****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.

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

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

| | | Adjustments or | |
|-----------------------------------|-------------|----------------|---------------|
| | Base Level | Enhancements | Appropriation |
| 11 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 12 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 13 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 14 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| 15 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 16 New and vacant FTE pool | 0 | 1,646,304 | 1,646,304 |
| 17 Total general fund | \$1,041,374 | \$1,954,867 | \$2,996,241 |
| 18 Full-time equivalent positions | 3.00 | 5.00 | 8.00 |

19 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
20 **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 | <u>5,484</u> |
| Total | \$57,832 |

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.

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 Ethics Commission | \$1,041,374 | \$246,304 1,349,937 | \$1,400,000 | \$1,646,304 1,349,937 |
| Total all funds | \$1,041,374 | \$1,596,241 | \$1,400,000 | \$2,996,241 |
| Less estimated income | 0 | 0 | 0 | 0 |
| General fund | \$1,041,374 | \$1,596,241 | \$1,400,000 | \$2,996,241 |
| FTE | 3.00 | 4.00 | 4.00 | 8.00 |

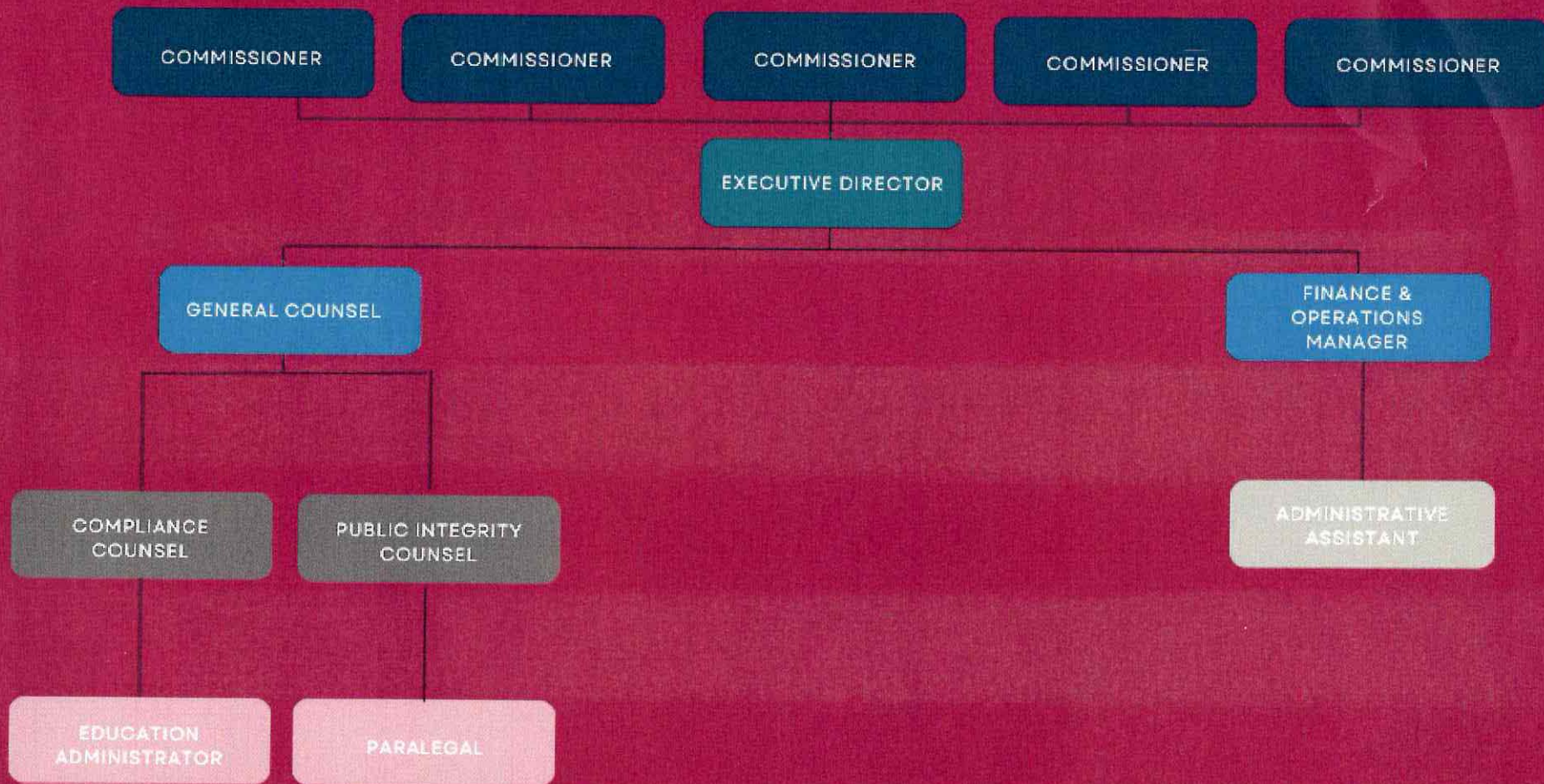
Department 195 - Ethics Commission - Detail of House Changes

| | Adds New FTE Positions¹ | Total House Changes |
|--|---|--------------------------------|
| New and vacant FTE pool Ethics Commission | \$1,400,000 | \$1,400,000 |
| Total all funds | \$1,400,000 | \$1,400,000 |
| Less estimated income | 0 | 0 |
| General fund | \$1,400,000 | \$1,400,000 |
| FTE | 4.00 | 4.00 |

¹ Funding is added for the following new FTE positions:

- Compliance counsel
- Administrative assistant
- Enforcement counsel
- Paralegal

PROJECTED ETHICS COMMISSION ORGANIZATIONAL CHART



2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Education and Environment Division Prairie Room, State Capitol

SB 2004
4/7/2025

A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission.

3:23 p.m. Chairman Nathe called the meeting to order.

Members present: Chairman Nathe, Vice Chairman Swiontek, Representatives Louser, Martinson, Richter, Sanford and Hanson.

3:23 p.m. Discussion

Discussion Topics:

- 1 more FTE
- Increase in reports
- Closing in 180 days

3:27 p.m. Representative Martinson, moved to remove the Education and Communication FTE.

3:27 p.m. Representative Swiontek seconded.

| Representatives | Vote |
|----------------------------------|------|
| Representative Mike Nathe | Y |
| Representative Steve Swiontek | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |

3:28 p.m. Motion passed, 6-1-0.

3:29 p.m. Representative Martinson, moved to remove Case Management one-time funding of \$50,000.00.

3:29 p.m. Representative Richter seconded.

3:29 p.m. Discussion

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Mike Nathe | Y |
| Representative Steve Swiontek | N |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | N |
| Representative Bob Martinson | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |

3:31 p.m. Motion passed, 4-3-0.

3:32 p.m. Discussion

3:39 p.m. Representative Hanson moved to increase staffing by 5 on LC# 25.01271.02004, #44563 from 04/02/2025.

3:39 p.m. Motion failed due to lack of second.

3:39 p.m. Representative Hanson moved to increase the amount professional fees from \$50,000.00 to \$200,000.00.

3:41 p.m. Motion failed due to lack of second.

3:42 p.m. Representative Martinson, moved to accept proposed amendment changes to LC# 25.0171.02003, #44790, #44791.

3:42 p.m. Representative Louser seconded.

3:43 p.m. Representative Nathe reviewed proposed amendment changes.

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Mike Nathe | Y |
| Representative Steve Swiontek | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |

3:56 p.m. Motion passed, 6-1-0.

3:56 p.m. Representative Hanson reviewed proposed amendment, LC# 25.0171.02005, #44789.

4:03 p.m. Representative Richter moved Do Pass on Amendment LC# 25.0171.02005, #44789. and changes to remove wording.

4:04 p.m. Representative Martinson seconded.

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Mike Nathe | Y |
| Representative Steve Swiontek | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |

4:07 p.m. Motion passed, 6-1-0.

4:12 p.m. Representative Hanson, moved to change wording in amendment LC# 25.0171.02003.

4:12 p.m. Motion failed, due to lack of second.

4:12 p.m. Representative Martinson, moved a Do Pass as Amended on SB 2004.

4:12 p.m. Representative Richter seconded.

4:13 p.m. Roll Call Vote on Do Pass as Amended.

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Mike Nathe | Y |
| Representative Steve Swiontek | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |

4:13 p.m. Motion passed, 6-1-0.

4:14 p.m. Representative Louser will carry the Bill.

4:14 p.m. Chairman Nathe closed the meeting.

Steven Riehl, Committee Clerk

25.0171.02005
Title.

Prepared by the Legislative Council
staff for Representative Hanson
April 4, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

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; and to create and enact a new section to chapter 54-66 of the North Dakota
3 Century Code, relating to an ethics commission annual report.

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

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

| | | Adjustments or | |
|-----------------------------------|-------------------|---------------------|----------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 12 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 13 New and vacant FTE pool | <u>0</u> | <u>246,304</u> | <u>246,304</u> |
| 14 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 15 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

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

17 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
18 items included in the appropriation in section 1 of this Act which are not included in the entity's
19 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
20 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 | <u>5,484</u> |
| Total | \$57,832 |

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

Ethics commission annual report.

1. The ethics commission shall prepare an annual report each fiscal year regarding the activities and operations of the commission. The ethics commission shall make the annual report available on its public website within sixty days of the end of each fiscal year.

2. The annual report must include information regarding:

a. The number of complaints received by the commission, the status of those complaints, the commission's actions to resolve the complaints, and the timing related to those actions;

b. The number of advisory opinions requested and issued, as well as information regarding general conflict disclosures and quasi-judicial disclosures received; and

c. Information regarding education and outreach and the status of the commission's budget.

3. The annual report may include recommendations for new or revised laws, rules, or policies that could improve the confidence that North Dakota citizens have in their government.

Bill No. 2004

Fiscal No. 1

25.0171.02003s

03/13/2025

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 | (16,290) | 1,333,647 |
| Total all funds | \$1,041,374 | \$1,596,241 | (\$252,659) | \$1,343,582 |
| Less estimated income | 0 | 0 | 0 | 0 |
| General fund | \$1,041,374 | \$1,596,241 | (\$252,659) | \$1,343,582 |
| FTE | 3.00 | 4.00 | (1.00) | 3.00 |

Department 195 - Ethics Commission - Detail of House Changes

| | Removes Communication and Education FTE Position¹ | Total House Changes |
|-------------------------|---|--------------------------------|
| New and vacant FTE pool | (\$236,369) | (\$236,369) |
| Ethics Commission | (16,290) | (16,290) |
| Total all funds | (\$252,659) | (\$252,659) |
| Less estimated income | 0 | 0 |
| General fund | (\$252,659) | (\$252,659) |
| FTE | (1.00) | (1.00) |

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

25.0171.02003
Title.
Fiscal No. 1

Prepared by the Legislative Council
staff for Representative Nathe

March 13, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

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 a new section to chapter
3 54-66 of the North Dakota Century Code, relating to immunity and a defense for individuals
4 voting on legislation and closure of an ethics commission investigation; to amend and reenact
5 section 12.1-13-02, subsection 4 of section 54-66-12, and section 54-66-18 of the North Dakota
6 Century Code, relating to immunity from criminal prosecution, confidential information related to
7 a complaint made to the ethics commission, and conflicts of interest; and to declare an
8 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:

| | | Adjustments or | | |
|----|--------------------------------|---------------------|----------------------|-------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> | |
| 17 | Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 18 | New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 19 | Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 20 | Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

| | | | | |
|---|--------------------------------|-------------|-----------|-------------|
| 1 | Ethics commission | \$1,041,374 | \$292,273 | \$1,333,647 |
| 2 | New and vacant FTE pool | 0 | 9,935 | 9,935 |
| 3 | Total general fund | \$1,041,374 | \$302,208 | \$1,343,582 |
| 4 | Full-time equivalent positions | 3.00 | 0.00 | 3.00 |

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

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

| | | |
|----|--|---------------------|
| 10 | <u>One-Time Funding Description</u> | <u>General Fund</u> |
| 11 | Case management system | \$50,000 |
| 12 | Office furniture | 2,348 |
| 13 | New FTE position one-time costs | 5,484 |
| 14 | Total | \$57,832 |
| 15 | Office furniture | 2,348 |
| 16 | Total | \$52,348 |

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

23 **SECTION 4. AMENDMENT.** Section 12.1-13-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **12.1-13-02. Speculating or wagering on official action or information.**

- 26 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
27 public servant, or within one year thereafter, in contemplation of official action by
28 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the
29 individual is or has been associated as a public servant, or in reliance on information
30 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
31 public servant, ~~he~~the individual:

- a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.

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

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

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

Voting on legislation - Immunity - Affirmative defense.

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

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

SECTION 9. EMERGENCY. Sections 4, 5, 6, 7, and 8 of this Act are declared to be an emergency measure.

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2004
4/10/2025

| |
|--|
| A BILL for an Act to provide an appropriation for defraying the expenses of the ethics commission. |
|--|

9:58 a.m. Chairman Vigesaa opened the meeting.

Members present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Anderson, Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Swiontek, Wagner

Member absent: Martinson

Discussion Topics:

- Committee Action
- Education and Outreach Full-Time Employee (FTE)

9:58 a.m. Representative Louser explained Amendment LC #25.0171.02006, #44894.

10:33 a.m. Rebecca Binstock, Executive Director, ND Ethics Commission answered questions.

10:38 a.m. Representative Louser moved to adopt amendment LC #25.0171.02006.

10:38 a.m. Representative Nathe seconded the motion.

10:40 a.m. Roll Call Vote

| Representatives | Vote |
|----------------------------------|------|
| Representative Don Vigesaa | Y |
| Representative Keith Kempenich | Y |
| Representative Bert Anderson | AB |
| Representative Mike Berg | Y |
| Representative Glenn Bosch | Y |
| Representative Mike Brandenburg | Y |
| Representative Jay Fisher | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | AB |
| Representative Lisa Meier | Y |
| Representative Alisa Mitskog | N |
| Representative David Monson | Y |
| Representative Eric J. Murphy | N |
| Representative Mike Nathe | Y |
| Representative Jon O. Nelson | N |

| | |
|-------------------------------|---|
| Representative Emily O'Brien | N |
| Representative Brandy L. Pyle | N |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |
| Representative Gregory Stemen | Y |
| Representative Steve Swiontek | Y |
| Representative Scott Wagner | N |

10:40 a.m. Motion passed 14-7-2.

10:41 a.m. Representative Pyle moved to further Amend to add one time funding for software from Strategic Investment and Improvements Fund (SIIF).

10:43 a.m. Representative Mitskog seconded the motion.

10:45 a.m. Roll Call Vote

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Don Vigesaa | N |
| Representative Keith Kempenich | N |
| Representative Bert Anderson | N |
| Representative Mike Berg | N |
| Representative Glenn Bosch | Y |
| Representative Mike Brandenburg | N |
| Representative Jay Fisher | N |
| Representative Karla Rose Hanson | Y |
| Representative Scott Louser | Y |
| Representative Bob Martinson | AB |
| Representative Lisa Meier | Y |
| Representative Alisa Mitskog | Y |
| Representative David Monson | Y |
| Representative Eric J. Murphy | Y |
| Representative Mike Nathe | N |
| Representative Jon O. Nelson | Y |
| Representative Emily O'Brien | Y |
| Representative Brandy L. Pyle | Y |
| Representative David Richter | N |
| Representative Mark Sanford | N |
| Representative Gregory Stemen | Y |
| Representative Steve Swiontek | Y |
| Representative Scott Wagner | Y |

10:45 a.m. Motion passed 13-9-1.

10:46 a.m. Representative Louser moved Do Pass as Amended.

10:46 a.m. Representative Nathe seconded the motion.

10:46 a.m. Roll Call Vote

| Representatives | Vote |
|----------------------------------|-------------|
| Representative Don Vigesaa | Y |
| Representative Keith Kempenich | Y |
| Representative Bert Anderson | Y |
| Representative Mike Berg | Y |
| Representative Glenn Bosch | Y |
| Representative Mike Brandenburg | Y |
| Representative Jay Fisher | Y |
| Representative Karla Rose Hanson | N |
| Representative Scott Louser | Y |
| Representative Bob Martinson | AB |
| Representative Lisa Meier | Y |
| Representative Alisa Mitskog | N |
| Representative David Monson | Y |
| Representative Eric J. Murphy | N |
| Representative Mike Nathe | Y |
| Representative Jon O. Nelson | Y |
| Representative Emily O'Brien | Y |
| Representative Brandy L. Pyle | Y |
| Representative David Richter | Y |
| Representative Mark Sanford | Y |
| Representative Gregory Stemen | Y |
| Representative Steve Swiontek | Y |
| Representative Scott Wagner | Y |

10:46 a.m. Motion passed 19-3-1.

10:46 a.m. Representative Louser will carry the bill.

10:47 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

April 10, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

4/10/25 VG
1 of 6

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:

| | Base Level | Adjustments or Enhancements | Appropriation |
|--|------------------------|--------------------------------|------------------------|
| 17 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 18 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 19 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 20 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

| | | | | |
|---|--------------------------------|-------------|-----------|-------------|
| 1 | Ethics commission | \$1,041,374 | \$292,273 | \$1,333,647 |
| 2 | New and vacant FTE pool | 0 | 9,935 | 9,935 |
| 3 | Total | \$1,041,374 | \$302,208 | \$1,343,582 |
| 4 | Less other funds | 0 | 50,000 | 50,000 |
| 5 | Total general fund | \$1,041,374 | 252,208 | \$1,293,582 |
| 6 | 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.

SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the

1 president of the senate, or speaker of the house, the individual and an organization for
2 which the individual is an agent, as defined in section 12.1-03-04 is immune from
3 criminal prosecution under the laws of this state for an offense arising from the
4 individual voting on a measure in a legislative committee, the senate, or the house of
5 representatives.

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

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

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

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

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

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

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

25 **54-66-18. Conflicts of interest - Legislative assembly.**

- 26 1. Each legislative assembly shall adopt conflict of interest rules. The rules must:
- 27 a. Require the disclosure by a member of a potential conflict of interest relating to
- 28 any bill in which the member may have a ~~direct, unique, substantial, or~~ and
- 29 individual interest.
- 30 b. Ensure a mechanism is in place to record each disclosure and make it readily
- 31 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.

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

Ethics commission annual report.

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

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

6 of 6

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 | (16,290) | 1,333,647 |
| Total all funds | \$1,041,374 | \$1,596,241 | (\$252,659) | \$1,343,582 |
| Less estimated income | 0 | 0 | 50,000 | 50,000 |
| 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 | Adjusts Funding Source for Case Management System ² | Total House Changes |
|-------------------------|--|---|------------------------|
| New and vacant FTE pool | (\$236,369) | | (\$236,369) |
| Ethics Commission | (16,290) | | (16,290) |
| Total all funds | (\$252,659) | \$0 | (\$252,659) |
| Less estimated income | 0 | 50,000 | 50,000 |
| 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 The source of one-time funding for a case management system is adjusted from the general fund to the strategic investment and improvements fund.

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.

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2004**

Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS** ([25.0171.02007](#)) and when so amended, recommends **DO PASS** (19 YEAS, 3 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). Engrossed SB 2004 was placed on the Sixth order on the calendar.

25.0171.02006
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

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:

| | | Adjustments or | |
|---------------------------------------|------------------------|----------------------|------------------------|
| | Base Level | Enhancements | Appropriation |
| 17 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 18 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 19 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 |

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

7 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
8 items included in the appropriation in section 1 of this Act which are not included in the entity's
9 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
10 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 |

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

24 **SECTION 4. AMENDMENT.** Section 12.1-13-02 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **12.1-13-02. Speculating or wagering on official action or information.**

- 27 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
28 public servant, or within one year thereafter, in contemplation of official action by
29 himselfthe individual as a public servant or by a government agency with which hethe
30 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.

2025 CONFERENCE COMMITTEE

SB 2004

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004
4/25/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

4:01 p.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, and Representative Hanson.

Discussion Topics:

- Full-Time Employee
- Case Management System
- Policy Changes
- 180 Day Case Closure

4:00 p.m. Brady Larson, Fiscal Analyst, LC, submitted testimony #45201.

4:00 p.m. Chairman Mathern submitted testimony #45202.

4:03 p.m. Representative Louser started the discussion with the House's position. The House removed the request for an FTE, and removed the maintenance for the Case Management System. Sections 5 - 10 were reviewed.

4:11 p.m. Chairman Mathern presented the Senate's position.

4:20 p.m. Senator Davison stated concerned about the 180 day time-frame of receipt of complaint being too short.

4:20 p.m. Senator Dever discussed the need for the education and communication FTE.

4:31 p.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

SB 2004
4-25-25



Ethics Commission - Budget No. 195
Agency Worksheet - Senate Bill No. 2004

| | Senate Version | | | | House Version | | | | House Compared to Senate Version | | | |
|--|------------------|-----------------|----------------|-------------|------------------|-----------------|----------------|-------------|----------------------------------|-----------------|----------------|-------------|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | Increase (Decrease) | | | |
| | | | | | | | | | FTE Positions | General Fund | Other Funds | Total |
| 2025-27 Biennium Base Level | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 3.00 | \$1,041,374 | \$0 | \$1,041,374 | 0.00 | \$0 | \$0 | \$0 |
| 2025-27 Ongoing Funding Changes | | | | | | | | | | | | |
| Salary increase | | \$35,168 | | \$35,168 | | \$35,168 | | \$35,168 | | | | \$0 |
| Health insurance increase | | 18,016 | | 18,016 | | 18,016 | | 18,016 | | | | 0 |
| Funding to replace 2023-25 new FTE pool | | 60,798 | | 60,798 | | 60,798 | | 60,798 | | | | 0 |
| Funding to replace 2023-25 vacant FTE pool | | 11,109 | | 11,109 | | 11,109 | | 11,109 | | | | 0 |
| 2025-27 new and vacant FTE pool | | (30,521) | | (30,521) | | (4,258) | | (4,258) | | \$26,263 | | 26,263 |
| Education and communication FTE | 1.00 | 273,438 | | 273,438 | 0.00 | 0 | | 0 | (1.00) | (273,438) | | (273,438) |
| Commissioner and temporary salary funding | | 43,403 | | 43,403 | | 43,403 | | 43,403 | | | | 0 |
| IT rate increases | | 8,713 | | 8,713 | | 8,713 | | 8,713 | | | | 0 |
| IT software and subscriptions | | 19,151 | | 19,151 | | 19,151 | | 19,151 | | | | 0 |
| Case management system | | | | 0 | | | | 0 | | | | 0 |
| Professional fees | | 50,000 | | 50,000 | | 50,000 | | 50,000 | | | | 0 |
| Travel costs | | 7,760 | | 7,760 | | 7,760 | | 7,760 | | | | 0 |
| Total ongoing funding changes | 1.00 | \$497,035 | \$0 | \$497,035 | 0.00 | \$249,860 | \$0 | \$249,860 | (1.00) | (\$247,175) | \$0 | (\$247,175) |
| One-Time Funding Items | | | | | | | | | | | | |
| Case management system one-time costs | | \$50,000 | | \$50,000 | | \$0 | \$50,000 | \$50,000 | | (\$50,000) | \$50,000 | \$0 |
| Office furniture | | 2,348 | | 2,348 | | 2,348 | | 2,348 | | | | 0 |
| New position one-time costs | | 5,484 | | 5,484 | | 0 | | 0 | | (5,484) | | (5,484) |
| Total one-time funding changes | 0.00 | \$57,832 | \$0 | \$57,832 | 0.00 | \$2,348 | \$50,000 | \$52,348 | 0.00 | (\$55,484) | \$50,000 | (\$5,484) |
| Total Changes to Base Level Funding | 1.00 | \$554,867 | \$0 | \$554,867 | 0.00 | \$252,208 | \$50,000 | \$302,208 | (1.00) | (\$302,659) | \$50,000 | (\$252,659) |
| 2025-27 Total Funding | 4.00 | \$1,596,241 | \$0 | \$1,596,241 | 3.00 | \$1,293,582 | \$50,000 | \$1,343,582 | (1.00) | (\$302,659) | \$50,000 | (\$252,659) |
| Federal funds included in other funds | | | \$0 | | | | \$0 | | | | \$0 | |
| Total ongoing changes - Percentage of base level | 33.3% | 47.7% | N/A | 47.7% | 0.0% | 24.0% | N/A | 24.0% | N/A | N/A | N/A | N/A |
| Total changes - Percentage of base level | 33.3% | 53.3% | N/A | 53.3% | 0.0% | 24.2% | N/A | 29.0% | N/A | N/A | N/A | N/A |

Other Sections in Ethics Commission - Budget No. 195

| Section Description | Senate Version | House Version |
|--|--|--|
| FTE positions | Section 3 provides guidelines for the use of funding from the new and vacant FTE funding pool. | Section 3 provides guidelines for the use of funding from the new and vacant FTE funding pool. |
| Strategic investment and improvements fund | | Section 4 identifies \$50,000 from the strategic investment and improvements fund for a case management system. |
| Ethics commission complaint and response process | | Sections 5 through 9 provide for adjustments to Ethics Commission investigations, confidential information regarding complaints, closing of complaints, and immunity and defense for individuals. Section 11 declares the sections to be an emergency. |

Other Sections in Ethics Commission - Budget No. 195

| Section Description | Senate Version | House Version | |
|---------------------------------|----------------|--|--|
| Ethics commission annual report | | Section 10 provides for the Ethics Commission to prepare an annual report. | |



To: Senator Mathern

From: Rebecca Binstock, Executive Director

Date: April 24, 2025

Re: Information for Education FTE

The Commission's responsibility to offer educational instruction regarding state ethics laws is critical to efficient and fair functioning of government operations in North Dakota. Creating awareness of ethical governance for public officials and employees reminds those in public service of the potential for conflicts of interest to public decision-making and in spending public money. Direct interactive and practical training and informational efforts assist public officials, lobbyists, candidates for office, and others in understanding and complying with the state ethics laws.

North Dakota's Ethics Commission is relatively new as it was created in late 2018 and implemented in late 2019. Many state ethics commissions have been in existence for decades, with the first state ethics commission established by Hawaii in 1978. Discussions with individuals serving these state ethics commissions and a review of their history demonstrate many were initiated as enforcement agencies with minimal prevention initiatives.

As these entities matured, many shifted their efforts to prevention through education, training, and communication in conjunction with enforcement. The rationale for this is straightforward: the public ultimately benefits when ethical decision-making and the fair functioning of state government happens, instead of addressing an issue after the decision-making has occurred.

In December 2022, Albany Law School's *Report on Independent Ethics Commission in the United States and U.S. Territories* demonstrates 39 independent ethics commissions (including some city and municipal ethics commissions) across the country provided training and/or educational materials as of 2022. North Dakota was not listed as a jurisdiction to provide education or training. However, the de facto national standard for independent ethics commission is an expectation to provide guidance, training, and education to public officials, candidates for office, lobbyists, and citizens.

Public officials who face an ethics-related crisis can feel isolated, with nowhere to turn. A sense of isolation, in fact, is a primary reason why they don't speak up at all. It is of vital importance public officials learn they are not alone and have someone to turn to for help. While most public officials act lawfully and want to do the right thing, ethics commissions observe public officials and employees often do not immediately recognize their own potential conflicts of interest and often need assistance in identifying the correct course of action.

In our conversations and interactions with other state ethics commissions, the question is not whether we should educate and train, but instead how to implement best practices to ensure understanding of ethical principles. This often relies on pedagogy – the method and practice of teaching. In 2023, I attended the Annual COGEL (Conference on Governmental Ethics Laws) conference. Many of the seminars offered at the conference focused on how to better train and educate employees and public officials. In fact, many ethics commissions were discussing how they implemented or were looking to implement training platforms to reach all stakeholders and how their team of educators could make a bigger impact by using these platforms.

After attending this conference, it became clear ethics commissions across the country were just as focused on preventative education/training as they were on enforcement. Our research supported that same conclusion – preventative education is more productive than retrospective enforcement. Ultimately, preventative education saves time and resources, provides education, Instead of policing behavior, ethics education fosters a culture where ethical decision-making becomes the norm and can result in a reduced need for enforcement. Education helps individuals navigate complex or ambiguous situations where rules might not apply directly, and empowers an open dialogue about ethics, instead of fostering defensiveness.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004
4/28/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

10:50 a.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson.

Discussion Topics:

- Full-Time Employee
- Case Management System
- 180 Day Case Closure

10:50 a.m. Chairman Mathern submitted testimony #45286 and #45287, #45305, #45306, #45307.

10:50 a.m. Chairman Mathern reviewed the difference between a complaint and a court case, and submitted testimony #45249.

11:00 a.m. Chairman Mathern asked if the House would like to set up some time management standards and referred to item 5 of submitted testimony #45300.

11:00 a.m. Rep. Louser expressed the House's concern about the 180 case closure. Chairman Mathern suggested tracking software included in the bill to address intent.

11:08 a.m. Senator Louser stated the House and Senate did not approve 50,000 for implementing rules.

11:15 a.m. Senator Davison stated he is not for another \$50,000 for a rules implementation.

11:17 a.m. Chairman Mathern stated the Senate and House did agree that there should be a case management system.

11:22 a.m. Rep. Hanson stated to further amend instead of "accused individual" use "respondent."

11:30 a.m. Chairman Davison commented on not adding to the budget things we have already decided not to add.

11:34 a.m. Rep. Louser stated the House was firm on the 180 days.

11:33 a.m. Senator Davison asked if this was an arbitrary number and is the intent to be reactive of which he did not approve.

11:39 a.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

JB2004
4-28-25

Specific Counterpoints to “I have watched enough lawyer shows to know that if someone goes to call their first witness and there is no witness, the court dismisses the case.”

- (1) This statement is not analogous to an ethics complaint investigation. It presumes a complaint jumps to a hearing.
- (2) The complaint process puts a hearing at the end, but requires an initial review, informal resolution, investigation, and a thorough report before a hearing is set.
- (3) If there are no witnesses/evidence found during an investigation, the Commission would dismiss a complaint at the hearing.
- (4) For criminal court cases, law enforcement generally completes an investigation before the court case starts. Many investigations take years before a charge is filed, with search warrants available as a tool. This is a much different process from the Commission’s complaint process.
- (5) For civil court cases, parties have litigation tools—like subpoenas—readily available. Even with these tools, civil trials are typically set roughly 18 to 24 months after a complaint is filed.
- (6) In my nearly 9 years with the U.S. District Court for the District of North Dakota, I do not remember a single civil or criminal matter resolved within 180 days.
- (7) State cases may resolve sooner with settlements and plea agreements, but the Commission has little control over settling complaints. Informal resolution is complainant driven.
- (8) Other boards and commissions have matters still open that are older than the Ethics Commission itself (and these boards/commissions have a subpoena process and better complaint processes).
- (9) The Commission has 8 pending matters from 2022 and 3 pending matters from 2023. All of those matters, with the exception of 1, are near the end of the process and will have hearings shortly.
- (10) The Commission must complete its investigations with its three staff members. Two contractors are assisting with one investigation each. Commission staff must divide time between investigations, administrative work, operations, and educational initiatives.
- (11) Respondents receive notice at each stage of the process. When respondents don’t hear from the Commission, Commission staff is gathering documentation and interviewing witnesses. Respondents are welcome to reach out for updates, but repeated requests for updates divert time and resources from completing the investigation.
- (12) The root of delays is short staffing and a very flawed process. The Commission acknowledged the delays and proposed a solution: HB 1360 (which failed) and adding an educator/communicator to reallocate attorney time to complaints. A 180-day deadline would create additional problems, not solutions.

25.0171.02011
Title.

Prepared by the Legislative Council
staff for Senator Mathern

April 22, 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 (25.0171.02011) as follows:

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, section 54-66-07, subsection 4 of section 54-66-12, and section 54-66-18 of the North Dakota Century Code, relating to immunity from criminal prosecution, informal resolution of a complaint, 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 |

Sixty-ninth
Legislative Assembly

| | | | | |
|---|---|------------------------|----------------------|------------------------|
| 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:

| | | | | |
|----|--|-------------------------|-------------|----------|
| 14 | One-Time Funding Description | General Fund | | |
| 15 | Case management system | \$50,000 | | |
| 16 | Office furniture | 2,348 | | |
| 17 | New FTE position one-time costs | 5,484 | | |
| 18 | Total | \$57,832 | | |
| 19 | One-Time Funding Description | General Fund | Other Funds | Total |
| 20 | Case management system | \$0 | \$50,000 | \$50,000 |
| 21 | Office furniture | 2,348 | 0 | 2,348 |
| 22 | 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.

SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house, the individual and an organization for which the individual is an agent, as defined in section 12.1-03-04, is immune from criminal prosecution under the laws of this state for an offense arising from the individual voting on a measure in a legislative committee, the senate, or the house of 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 7. 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 8. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

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

SECTION 9. 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 10. 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.

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

Ethics commission annual report.

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

1 **SECTION 12. EMERGENCY.** Sections 5, 6, 7, 8, 9, and 10 of this Act are declared to be an
2 emergency measure.

25.0171.02013
Title.

Prepared by the Legislative Council
staff for Senator Mathern

April 24, 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 (25.0171.02013) 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, timely disposition of ethics commission complaints, and an
5 ethics commission annual report; to amend and reenact section 12.1-13-02, subsection 4 of
6 section 54-66-12, and section 54-66-18 of the North Dakota Century Code, relating to immunity
7 from 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:

| | | Adjustments or | |
|---------------------------------------|------------------------|----------------------|------------------------|
| | Base Level | Enhancements | Appropriation |
| 17 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 18 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 19 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 | \$292,273 | \$1,333,647 |
| 3 | New and vacant FTE pool | 0 | 9,935 | 9,935 |
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| 5 | Less other funds | 0 | 50,000 | 50,000 |
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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:

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

| | | | | |
|----|-------------------------------------|---------------------|--------------------|--------------|
| 18 | <u>One-Time Funding Description</u> | <u>General Fund</u> | <u>Other Funds</u> | <u>Total</u> |
| 19 | Case management system | \$0 | \$50,000 | \$50,000 |
| 20 | Office furniture | 2,348 | 0 | 2,348 |
| 21 | 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.

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SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
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3. An individual is immune from prosecution under this section if:

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

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

Voting on legislation - Immunity - Affirmative defense.

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

14 **Complaint management time standards.**

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

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

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

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

24 **54-66-18. Conflicts of interest - Legislative assembly.**

- 25 1. Each legislative assembly shall adopt conflict of interest rules. The rules must:
- 26 a. Require the disclosure by a member of a potential conflict of interest relating to
- 27 any bill in which the member may have a ~~direct, unique, substantial, or~~ and
- 28 individual interest.
- 29 b. Ensure a mechanism is in place to record each disclosure and make it readily
- 30 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.

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

Ethics commission annual report.

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

2. The annual report must include:

- a. The number of complaints received by the commission, the status of those complaints, the commission's actions to resolve the complaints, and the timing related to those actions;

- b. The number of advisory opinions requested and issued, as well as information regarding general conflict disclosures and quasi-judicial disclosures received; and

- c. Information regarding education and outreach and the status of the commission's budget.

3. The annual report may include recommendations for new or revised laws, rules, or policies that could improve the confidence North Dakota citizens have in their government.

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

Below are the Senate's five requests as SB 2004 goes into conference committee.

1. Restore Education & Communication FTE & Funding - **25.0171.02008 pp. 1-2**
 - a. Allows the Commission to reallocate attorney time to complaints, general counsel work, advisory opinions, and informal guidance.
 - b. Demonstrated need for more education based on misinformation
 - c. Turnover with term limits will require more education
 - d. Reaching Boards & Commissions – this is where the need for education is the greatest and conflicts are the most prevalent. Communications with Boards & Commissions is difficult because public officials do not maintain state emails and there is noticeable turnover.
2. Remove Section 7 of SB 2004 - **25.0171.02009 pp. 4-5 sections renumbered accordingly**
 - a. Requires the Commission to close complaints within 180 days.
 - b. Marketed as a “tool” to close cases. A deadline is not a tool. It would require the Commission to dismiss and not address the underlying issue.
 - c. The remaining language of Section 7 was taken from HB 1360. The language references the Commission issuing an “alleged violation.” That process does not happen in the current complaint process. Without the rest of HB 1360, first two sentences of Section 7 do not make sense.
 - d. Further weaponizes the process as complaints would need to be closed at 180 days, without demonstrating the complaint was without merit or had merit.
3. Additional Funds Requests - **25.0171.02012 p. statement of purpose**
 - a. \$25,000 Workload Salary Increase for Operations Administrator
 - b. \$50,000 for Rules Implementation
 - c. Ongoing appropriation for Case Management System
4. Amend N.D.C.C. § 54-66-07 to allow for mediation between the Commission and the respondent, instead of between the complainant and the respondent. - **25.0171.02011 p. 4, lines 20-26**
 - a. The commission ~~may~~ ~~shall attempt to negotiate or mediate~~ an informal resolution ~~between~~ with the accused individual ~~and the complainant~~ unless the commission summarily dismissed the complaint under section 54-66-05. The accused individual may be accompanied by legal counsel in a negotiation or mediation.
5. Replace Section 7 of SB 2004 and Direct the Commission to Develop Time Management Standards - **25.0171.02013 p. 4, lines 14-16**
 - a. Current language in the bill requires the Commission to close complaints within 180 days. The remaining language in Section 7 was taken from HB 1360 and does not make sense without the other reforms in HB 1360.
 - b. The 180-day deadline fails to account for time delays outside the Commission's control (i.e. criminal referrals, potential appeals). It is also unclear what data was used to settle on 180 days as a deadline.
 - c. Article XIV, section 4(1) prohibits laws that would “hamper, restrict, or impair” the Commission's work. The 180-day deadline arguably violates this constitutional provision.
 - d. This amendment is modeled after the Supreme Court's rule for case management time standards found in N.D.Sup.Ct.Admin.R. 12.
 - e. Amendment will require time standards for complaint time management. However, it will allow these time standards to be data driven and not arbitrarily imposed.
 - f. Complaint time management standards would work in conjunction with a case management system.

25.0171.02008
Title.

Prepared by the Legislative Council
staff for Senator Mathern
April 21, 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 (25.0171.02008) 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, 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:

| | | Adjustments or | |
|-----------------------------------|-------------|----------------|---------------|
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| 19 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 20 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

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 | <u>5,484</u> |
| Total | \$57,832 |

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.

SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or

c. Aids another individual to do any of the foregoing.

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

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

a. The individual was a member of the legislative assembly at the time the official
action was taken;

b. The official action was a vote on a measure in the senate or house of
representatives or a legislative committee; and

c. The individual adhered to legislative conflict of interest rules requiring an
individual to disclose a personal or private interest to the member's respective
chamber of the legislative assembly, legislative committee, the president of the
senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the
member's respective chamber of the legislative assembly, a legislative committee, the
president of the senate, or speaker of the house, the individual and an organization for
which the individual is an agent, as defined in section 12.1-03-04 is immune from
criminal prosecution under the laws of this state for an offense arising from the
individual voting on a measure in a legislative committee, the senate, or the house of
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 7. 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 8. 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 9. 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.

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

Ethics commission annual report.

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

2. The annual report must include information regarding:

a. The number of complaints received by the commission, the status of those complaints, the commission's actions to resolve the complaints, and the timing related to those actions;

b. The number of advisory opinions requested and issued, as well as information regarding general conflict disclosures and quasi-judicial disclosures received; and

c. Information regarding education and outreach and the status of the commission's budget.

3. The annual report may include recommendations for new or revised laws, rules, or policies that could improve the confidence that North Dakota citizens have in their government.

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

25.0171.02009
Title.

Prepared by the Legislative Council
staff for Senator Mathern

April 22, 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 (25.0171.02009) 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 a new section to chapter
3 54-66 of the North Dakota Century Code, relating to immunity and a defense for individuals
4 voting on legislation and an ethics commission annual report; to amend and reenact section
5 12.1-13-02, subsection 4 of section 54-66-12, and section 54-66-18 of the North Dakota
6 Century Code, relating to immunity from criminal prosecution, confidential information related to
7 a complaint made to the ethics commission, and conflicts of interest; and to declare an
8 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:

| | | Adjustments or | | |
|----|-------------------------|---------------------|----------------------|-------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> | |
| 17 | Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 18 | New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 19 | 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 | \$292,273 | \$1,333,647 |
| 3 | New and vacant FTE pool | 0 | 9,935 | 9,935 |
| 4 | Total | \$1,041,374 | \$302,208 | \$1,343,582 |
| 5 | Less other funds | 0 | 50,000 | 50,000 |
| 6 | Total general fund | \$1,041,374 | 252,208 | \$1,293,582 |
| 7 | 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:

| | | | | |
|----|--|-------------------------|-------------|----------|
| 13 | One-Time Funding Description | General Fund | | |
| 14 | Case management system | \$50,000 | | |
| 15 | Office furniture | 2,348 | | |
| 16 | New FTE position one-time costs | 5,484 | | |
| 17 | Total | \$57,832 | | |
| 18 | One-Time Funding Description | General Fund | Other Funds | Total |
| 19 | Case management system | \$0 | \$50,000 | \$50,000 |
| 20 | Office furniture | 2,348 | 0 | 2,348 |
| 21 | 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.

SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

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

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

Ethics commission annual report.

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

2. The annual report must include:

a. The number of complaints received by the commission, the status of those complaints, the commission's actions to resolve the complaints, and the timing related to those actions;

b. The number of advisory opinions requested and issued, as well as information regarding general conflict disclosures and quasi-judicial disclosures received; and

c. Information regarding education and outreach and the status of the commission's budget.

3. The annual report may include recommendations for new or revised laws, rules, or policies that could improve the confidence that North Dakota citizens have in their government.

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

25.0171.02012
Title.
Fiscal No. 1

Prepared by the Legislative Council
staff for Senator Mathern

April 22, 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 (25.0171.02012) as follows:

- 1 A BILL for an Act to provide an appropriation for defraying the expenses of the ethics
2 commission.

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

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

| | Adjustments or | | |
|-----------------------------------|------------------------|----------------------|------------------------|
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 11 Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 12 <u>Ethics commission</u> | <u>\$1,041,374</u> | <u>\$443,563</u> | <u>\$1,484,937</u> |
| 13 New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 14 Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 15 <u>Total general fund</u> | <u>\$1,041,374</u> | <u>\$689,867</u> | <u>\$1,731,241</u> |
| 16 Full-time equivalent positions | 3.00 | 1.00 | 4.00 |

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

- 18 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
19 items included in the appropriation in section 1 of this Act which are not included in the entity's

1 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
2 committees of the seventieth legislative assembly regarding the use of this funding:

| 3 <u>One-Time Funding Description</u> | <u>General Fund</u> |
|---------------------------------------|---------------------|
| 4 Case management system | \$50,000 |
| 5 Office furniture | 2,348 |
| 6 New FTE position one-time costs | <u>5,484</u> |
| 7 Total | \$57,832 |

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

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 930 a.m.
4/29/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

9:32 a.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Full-Time Employee
- Case Management System
- Employee Salary Increase

9:32 a.m. Chairman Mathern submitted testimony #45288.

9:32 a.m. Chairman Mathern referred to item 5 of previously submitted testimony #45300. He stated that Section 7 - the time management schedule, didn't need an amendment.

9:34 a.m. Rebecca Binstock, Director, ND Ethics Commission, responded to the change of language in item 4 of previously submitted testimony #45300. The change will read - The commission may negotiate an informal resolution with the accused individual unless the commission summarily dismissed the complaint under section 54-66-05. The accused individual may be accompanied by legal counsel in a negotiation or mediation.

9:42 a.m. Logan Carpenter, General Counsel, ND Ethics Commission answered committee questions.

9:45 a.m. Rebecca Binstock, Director, ND Ethics Commission, answered committee questions concerning informal resolution.

9:50 a.m. Senator Davison referred to item 3 of previously submitted testimony #45300 and mentioned that the longsheet is missing the funding (\$24,434.00) to move an employee up to a higher grade and needs to be put back in the budget and included in the amendment. The Senate proposed an amendment giving the department more flexibility with the \$50,000, either to bring in an expert advisor or to purchase the software. An amendment is being prepared.

10:01 a.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

SB 2004
4-29-25

NDEC Complaint Resolutions

| Year | Total Complaints Received | Informally Resolved | | Pending | | Resolved | |
|---------------|---------------------------------|------------------------|-----------|-----------|------------|-----------|------------|
| 2019 | 2 | 0 | 0% | 0 | 0% | 2 | 100% |
| 2020 | 3 | 0 | 0% | 0 | 0% | 3 | 100% |
| 2021 | 9 | 0 | 0% | 0 | 0% | 9 | 100% |
| 2022 | 14 | 1 | 7% | 8 | 57% | 6 | 43% |
| 2023 | 15 | 1 | 7% | 3 | 20% | 12 | 80% |
| 2024 | 41 | 0 | 0% | 17 | 41% | 24 | 59% |
| 2025 | 68 | 0 | 0% | 29 | 43% | 39 | 57% |
| Totals | 152 | 2 | 1% | 57 | 38% | 95 | 63% |

as of 4/28/2025

Tim Mathern

5 more than last report.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 10:00 a.m.
4/30/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

10:00 a.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Rep. Louser, Rep. Martinson, Rep. Hanson

Discussion Topics:

- Full-Time Equivalent Employee
- Informal Resolution
- Replacement of wording from "Accused Individual" to "Respondent"
- 60 Day Limit
- Employee Increase in Workload and Salary
- Case Management System & Office Furniture

10:03 a.m. Representative Louser introduced a proposed amendment and submitted testimony #45330 to include informal resolution verbiage. He also stated the words "accused individual" should be replaced by the word "respondent."

10:05 a.m. Logan Carpenter, General Counsel, ND Ethics Commission, answered committee questions concerning verbiage.

10:10 a.m. Senator Davison introduced an amendment LC# 25.0171.02016, submitted testimony #45331 and started discussion. The purpose of this amendment is to allow the State's Attorney 60 days to handle a complaint, then the Ethics Commission can reopen the case to proceed with their investigation and to have an outcome.

10:15 a.m. Representative Louser asked about the relationship between the appropriate law enforcement agency and the State's Attorney.

10:15 a.m. Logan Carpenter, General Counsel, Ethics Commission, clarified relationship between law enforcement agency and State's Attorney.

10:17 a.m. Senator Dever started discussion over his concerns about the State's Attorney 60 day provision limit and the Ethics Commission 180 day provision limit.

10:20 a.m. Representative Hanson shared Senator Dever's concerns.

10:21 a.m. Chairman Mathern asked for a consensus with Davison's amendment addressing only the 60 day option.

10:21 a.m. Grant Gader, Fiscal Analyst, LC, clarified for a committee consensus that Davison's amendment is only addressing the 60 day option.

10:22 a.m. Senator Davison remarked that the Ethics Commission can take the complaint back again after 60 days and proceed with an outcome.

10:23 a.m. Logan Carpenter, General Counsel, LC, clarified that Senator Davison's remarks are correct.

10:25 a.m. Senator Mathern asked for consensus on the Davison amendment concerning the 60 day provision and he received consensus.

10:26 a.m. Senator Davison discussed a proposed amendment concerning the added duties and salary increase (\$24,434.00) of an employee. He asked if there was consensus on the case management system language and funding of a plan or for a solution. There was consensus for these items to be added to a final amendment.

10:29 a.m. Chairman Mathern started discussion about the Full-Time Equivalent Position and distributed testimony #45329.

10:30 a.m. Representative Louser discussed his concerns. These concerns will continue in the next meeting.

10:38 a.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk



To: Senator Mathern

From: Rebecca Binstock, Executive Director

Date: April 24, 2025

Re: Information for Education FTE

The Commission's responsibility to offer educational instruction regarding state ethics laws is critical to efficient and fair functioning of government operations in North Dakota. Creating awareness of ethical governance for public officials and employees reminds those in public service of the potential for conflicts of interest to public decision-making and in spending public money. Direct interactive and practical training and informational efforts assist public officials, lobbyists, candidates for office, and others in understanding and complying with the state ethics laws.

North Dakota's Ethics Commission is relatively new as it was created in late 2018 and implemented in late 2019. Many state ethics commissions have been in existence for decades, with the first state ethics commission established by Hawaii in 1978. Discussions with individuals serving these state ethics commissions and a review of their history demonstrate many were initiated as enforcement agencies with minimal prevention initiatives.

As these entities matured, many shifted their efforts to prevention through education, training, and communication in conjunction with enforcement. The rational for this is straightforward: the public ultimately benefits when ethical decision-making and the fair functioning of state government happens, instead of addressing an issue after the decision-making has occurred.

In December 2022, Albany Law School's *Report on Independent Ethics Commission in the United States and U.S. Territories* demonstrates 39 independent ethics commissions (including some city and municipal ethics commissions) across the country provided training and/or educational materials as of 2022. North Dakota was not listed as a jurisdiction to provide education or training. However, the de facto national standard for independent ethics commission is an expectation to provide guidance, training, and education to public officials, candidates for office, lobbyists, and citizens.

Public officials who face an ethics-related crisis can feel isolated, with nowhere to turn. A sense of isolation, in fact, is a primary reason why they don't speak up at all. It is of vital importance public officials learn they are not alone and have someone to turn to for help. While most public officials act lawfully and want to do the right thing, ethics commissions observe public officials and employees often do not immediately recognize their own potential conflicts of interest and often need assistance in identifying the correct course of action.

In our conversations and interactions with other state ethics commissions, the question is not whether we should educate and train, but instead how to implement best practices to ensure understanding of ethical principles. This often relies on pedagogy – the method and practice of teaching. In 2023, I attended the Annual COGEL (Conference on Governmental Ethics Laws) conference. Many of the seminars offered at the conference focused on how to better train and educate employees and public officials. In fact, many ethics commissions were discussing how they implemented or were looking to implement training platforms to reach all stakeholders and how their team of educators could make a bigger impact by using these platforms.

After attending this conference, it became clear ethics commissions across the country were just as focused on preventative education/training as they were on enforcement. Our research supported that same conclusion – preventative education is more productive than retrospective enforcement. Ultimately, preventative education saves time and resources, provides education, Instead of policing behavior, ethics education fosters a culture where ethical decision-making becomes the norm and can result in a reduced need for enforcement. Education helps individuals navigate complex or ambiguous situations where rules might not apply directly, and empowers an open dialogue about ethics, instead of fostering defensiveness.

Mathern, Tim



To:

Cc:

Subject:

Binstock, Rebecca <rebinstock@nd.gov>

Wednesday, April 30, 2025 6:56 AM

Mathern, Tim

Maier, Alisha; Carpenter, Logan

Education FTE Job Responsibilities

Good Morning, Senator Mathern:

The Commission has requested an FTE for the purpose of education and communications. Most ethics commissions focus significant resources on education and training to prevent ethical issues. According to Albany Law School's *Report on Independent Ethics Commission in the United States and U.S. Territories* (Dec 2022), 39 independent ethics commissions across the country provided training and/or educational materials. North Dakota was not included.

The Education and Communication Administrator will have the following job responsibilities:

- Develop tailored ethics education curriculum standards for stakeholder groups (elected officials, individuals serving on boards and commissions, executive branch appointed employees, other public employees, citizens, candidates for office, and lobbyists) focusing on transparency, corruption, elections, and lobbying.
 - Curriculum components include substantive areas as well as education on ethical decision-making and ethical awareness
 - Relies on data-tested pedagogical standards
- Maintain all curriculum to align with updates in North Dakota rules and laws.
- Develop core educational content to align with curriculum standards which can be accessed across Ethics Commission communication channels
- Create and maintain educational materials to include: Fast Fact Sheets by topic; Short Instructional videos by topic; Self-Help webpage
- Develop a detailed, comprehensive Guide to North Dakota ethics laws to explain the constitution, statutes, and rules in plain language.
- Provide informal guidance to public officials in collaboration with general counsel
- Coordinate and lead workshops, webinars, and seminars on state ethics laws, conflicts of interest, financial disclosures, and related topics.
- Represent the Ethics Commission at conferences, community events, and public forums.
- Respond to open records requests
- Respond to press inquiries in collaboration with the executive director
- Develop communication channels to public officials, lobbyists, and candidates for office subject to Commission rules
- Serve as a liaison for state agencies (and even local governments in the future) on ethical issues
- Promote state programs and actions that build trust in government (some ethics commissions do this through a Podcast format)
- Develop, write, and distribute a periodic ethics education newsletter featuring updates on ethics law, training opportunities, compliance tips, and recent Commission activity.
- Coordinate with operations administrator to ensure educational material branding, formatting, and delivery align with Commission standards.
- Develop metrics to measure ethical prevention and compliance – demonstrable to the public.
- Promote synchronous activities between North Dakota citizens and public officials aimed at increasing trust in people.

Currently, the Commission's general counsel dedicates roughly 33% of his time to educational efforts; the Executive Director dedicates roughly 33% of her time to educational efforts as well. Education is one of the cornerstones to develop ethical awareness and an ethical culture. Research demonstrates a robust ethics educational program is one of the cornerstones of effective government and citizen trust in government decision making. Therefore, ethics education is a priority for the Commission. However, without an individual specifically charged with developing and maintaining ethics education, general counsel and executive director time is diverted to educational efforts and away from complaint resolution. The addition of an education/communication administrator will reallocate the time of general counsel and executive director to complaint resolution.

Again, this is not a comprehensive list.

Thank you,

Rebecca Binstock

Executive Director

701.328.5322 (office) • 701.934.2135 (cell) • rebinstock@nd.gov • www.ethicscommission.nd.gov



Mathern, Tim

From: Binstock, Rebecca <rebinstock@nd.gov>
Sent: Tuesday, April 29, 2025 12:09 PM
To: Louser, Scott C.
Cc: Mathern, Tim
Subject: Executive Assistant duties v. Operations Administrator/Manager

Good Morning, Representative Louser:

Here is the information you requested about move of the Commission's executive assistant position to an operations administrator position.

This position was reclassified from an executive assistant at grade 104 to an operations administrator at a grade 105 in June 2024. This reclassification is due to both the quality and quantity of the work expected of someone in this role. At the time of the reclassification, only a small portion of the role was assisting the Executive Director and Commissioners with administrative tasks. With the growth in filings, personnel, and budget the role actually supported the internal operations of the Commission. At the time of the reclassification, the individual in this role did not receive a pay increase because of the Commission's limited budget. With only 3 staff members, there is no wiggle room in our salary appropriations when we have a reclassification.

As an executive assistant, the job description included administrative duties such as scheduling, answering phones, mailing, logistics for meetings, minutes, assisting with Commission payroll, p-card administration, and some procurement administration. With the reclassification to operations administrator, the position now also

includes:

- Maintaining and updating internal operating procedures
- Liaison between IT vendors and the Commission on IT projects (this has been very time-consuming this past biennium as the Commission created online, submittable state forms with NDIT)
- Management and maintenance of online form submissions, including troubleshooting JotForm and Webform issues
- Website design and content management
- Procurement Liaison
- Fiscal responsibilities include: Budget projections, accounts payable, accounts receivable, monthly financial reports and reconciliation, fiscal impacts of proposed rules and action
- COGEL Liaison for updating nationwide databases
- Records Coordinator
- Audit Coordinator
- Physical asset management
- Creation and Maintenance of Distribution Lists
- Completes annual ACFR closing packages and Fraud Risk Assessments
- Marketing & Social media management (including content creation, scheduling, reviewing social media analytics)
- Educational engagement tracking
- Legal assistant to general counsel and SAAGs
- Wellness Coordinator

This is certainly not an exhaustive list of responsibilities. I would note many agencies have 2-3 people doing the work described above, particularly splitting the operations, fiscal, and record management aspects of the above described work. Additionally, many agencies contract out social media engagement. We are asking the

operations administrator at the Commission to be a Jane or Jack of all trades – maintaining a comprehensive knowledge of many areas of fiscal and operational management. The operations administrator position was reclassified because of the increase in responsibilities and workload, but there was no corresponding salary increase. On a personal note, I am very concerned about losing Ms. Maier to another state agency because less can be asked of her and she will receive more compensation. If the Commission would need to replace her, I believe it would take at least 2 full-time employees to do the work Ms. Maier is currently doing.

Also, please keep in mind, the funds requested (~ \$24,000) include funds for both salary and benefits for the next biennium.

Please let me know if you would like additional information.

Thank you,
Rebecca

Rebecca Binstock
Executive Director

701.328.5322 (office) • 701.934.2135 (cell) • rebinstock@nd.gov • www.ethicscommission.nd.gov

ND | **ETHICS**
COMMISSION



502004
4-30-25

Ethics Commission Draft 4/29/2025

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

54-66-07. Informal resolution.

The commission shall attempt to negotiate or mediate an informal resolution between the accused individual and the complainant unless the commission summarily dismissed the complaint under section 54-66-05. The accused individual may be accompanied by legal counsel in a negotiation or mediation. If the informal resolution process between the accused individual and the complainant is unsuccessful, the commission may work with the accused individual to settle and close the complaint matter.

25.0171.02016
Title.

Prepared by the Legislative Council
staff for Senator Davison

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:

| | | Adjustments or | |
|---------------------------------------|------------------------|----------------------|------------------------|
| | Base Level | Enhancements | Appropriation |
| 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:

| | | | | |
|----|-------------------------------------|---------------------|--------------------|--------------|
| 14 | <u>One-Time Funding Description</u> | <u>General Fund</u> | | |
| 15 | Case management system | | | \$50,000 |
| 16 | Office furniture | | | 2,348 |
| 17 | New FTE position one-time costs | | | 5,484 |
| 18 | Total | | | \$57,832 |
| 19 | <u>One-Time Funding Description</u> | <u>General Fund</u> | <u>Other Funds</u> | <u>Total</u> |
| 20 | Case management system | \$0 | \$50,000 | \$50,000 |
| 21 | Office furniture | 2,348 | 0 | 2,348 |
| 22 | 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.

SECTION 5. 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house, the individual and an organization for which the individual is an agent, as defined in section 12.1-03-04, is immune from criminal prosecution under the laws of this state for an offense arising from the individual voting on a measure in a legislative committee, the senate, or the house of 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 7. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

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

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

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

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

SECTION 9. 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 10. 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.

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

Complaint management time standards.

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

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

Ethics commission annual report.

1. The ethics commission shall prepare an annual report each fiscal year. The ethics commission shall make the annual report available on its public website within sixty 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.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 3:30 p.m.
4/30/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

3:31 p.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Employee Salary Increase
- New Full-Time Employee
- Case Management System
- Employee Salary Increase

3:31 p.m. Chairman Mathern introduced an amendment LC# 25.0171.02018, submitted testimony #45346 and started discussion.

3:37 p.m. Representative Martinson did not agree by the use of retroactive verbiage by the conference committee and in the amendment. Senator Davison agreed.

3:40 p.m. Representative Louser does not like the language on line 30 of page 9.

3:45 p.m. Rebecca Binstock, Executive Director, ND Ethics Commission, testified in favor and answered committee questions.

3:40 p.m. Representative Martinson has no problem with putting a caveat in the amendment that states if the accused does not cooperate the case should move forward and the complainant should not be able to hold up the complaint process.

3:51 p.m. Representative Louser would like to restore language "shall attempt," in line 4 of Section 10 of LC# 25.0171.02018. The omittance was an error.

3:53 p.m. Representative Hanson discussed Section 13 of LC# 25.0171.02018 and stated that by including a time provision limit in the amendment, the committee may cause a conflict with the constitution which states that laws can't be passed that restrict or hinder the commission's work.

3:55 p.m. Senator Dever agreed with Representative Martinson that the complainant should not be able to hold up the complaint process. This should be a determination of not going forward.

3:59 p.m. Logan Carpenter, General Counsel, LC, answered committee questions regarding whether "good cause" is appealable.

4:04 p.m. Senator Davison stated the need for a break and to reschedule the 5:00 p.m. meeting for 4:45. p.m.

4:10 p.m. Senator Davison motioned to reschedule for 4:45 pm.

4:10 p.m. Senator Dever seconded the motion.

Voice vote: Motion passed.

4:12 p.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

25.0171.02018
Title.
Fiscal No. 3

Prepared by the Legislative Council
staff for Senator Mathern

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 (25.0171.02018) 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 three 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 a matter of the ethics commission, rules for
5 complaint management time standards, and an ethics commission annual report; to amend and
6 reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07.
7 subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of
8 the North Dakota Century Code, relating to definitions, ethics commission meetings, complaints,
9 immunity from criminal prosecution, confidential information related to a complaint made to the
10 ethics commission, informal resolution process, law enforcement referrals, findings, appeals,
11 and conflicts of interest; and to declare an emergency.

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

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

| | | | |
|----|-------------------|---------------------|----------------------|
| 18 | | Adjustments or | |
| 19 | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |

Sixty-ninth
Legislative Assembly

| | | | | |
|---|--------------------------------|-------------|-----------|-------------|
| 1 | Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 2 | New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 3 | Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 4 | Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| 5 | Ethics commission | \$1,041,374 | \$316,707 | \$1,358,081 |
| 6 | New and vacant FTE pool | 0 | 201,369 | 201,369 |
| 7 | Total general fund | \$1,041,374 | \$518,076 | \$1,559,450 |
| 8 | Full-time equivalent positions | 3.00 | 0.75 | 3.75 |

9 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
10 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
11 items included in the appropriation in section 1 of this Act which are not included in the entity's
12 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
13 committees of the seventieth legislative assembly regarding the use of this funding:

| | | |
|----|-------------------------------------|---------------------|
| 14 | <u>One-Time Funding Description</u> | <u>General Fund</u> |
| 15 | Case management system | \$50,000 |
| 16 | Office furniture | 2,348 |
| 17 | New FTE position one-time costs | 5,484 |
| 18 | Total | \$57,832 |
| 19 | Total | \$52,348 |

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

26 **SECTION 4. AMENDMENT.** Section 12.1-13-02 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **12.1-13-02. Speculating or wagering on official action or information.**

- 29 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
30 public servant, or within one year thereafter, in contemplation of official action by
31 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~he

1 individual is or has been associated as a public servant, or in reliance on information
2 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
3 public servant, ~~he~~the individual:

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

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

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

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

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

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

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

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

from the individual voting on a measure in a legislative committee, the senate, or the house of 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. AMENDMENT. Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

54-66-01. Definitions.

As used in this chapter, unless the context otherwise requires:

- ~~1. "Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.~~
- ~~2.~~ "Complainant" means an individual who, in writing or verbally, submits a complaint to the commission and is:
 - a. A North Dakota resident;
 - b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
 - c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.
- ~~3-2.~~ "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.
- ~~4-3.~~ "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.
- ~~5-4.~~ "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:
 - a. Purely informational material;
 - b. A campaign contribution; and

c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state.

~~6-5.~~ "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.

~~7-6.~~ "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.

~~8-7.~~ "Lobbyist" means an individual required to register under section 54-05.1-03.

~~9-8.~~ "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.

~~10-9.~~ "Receives the complaint" means one or more members of the commission learn of the complaint.

~~10.~~ "Respondent" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

SECTION 7. AMENDMENT. Section 54-66-04 of the North Dakota Century Code is amended and reenacted as follows:

54-66-04. Ethics commission member terms - Meetings - Code of ethics - Compensation - Office.

1. The terms of the initial members of the ethics commission must be staggered to ensure no more than two members' terms expire in one year. The terms of the initial members may be less than four years to accommodate the required staggering of terms.
2. Unless the complaint at issue has resulted in the imposition of a penalty or referral for enforcement under section 54-66-09, any portion of a meeting during which commission members discuss complaints, informal resolutions, attempts to informally resolve complaints, investigations, or referrals under this chapter, the identity of an-

1 ~~accused individual~~ a respondent or complainant, or any other matter arising from a
2 complaint are closed meetings.

3 3. The commission shall abide by a code of ethics adopted in a public meeting. The code
4 of ethics must specify when a commission member is disqualified from participating in
5 matters before the commission.

6 4. Ethics commission members are entitled to:

7 a. Compensation for each day necessarily spent conducting commission business
8 in the amount provided for members of the legislative management under section
9 54-35-10; and

10 b. Payment for mileage and travel expenses necessarily incurred in the conduct of
11 commission business as provided under sections 44-08-04 and 54-06-09.

12 5. The director of the office of management and budget shall allocate office space in the
13 state capitol for the ethics commission, or, if office space in the capitol is unavailable,
14 shall negotiate for, contract for, and obtain office space for the ethics commission in
15 the city of Bismarck or in the Bismarck area. The ethics commission's office space
16 may not be located in the office space of any other government agency, board,
17 commission, or other governmental entity, and must provide sufficient privacy and
18 security for the ethics commission to conduct its business. The director shall charge
19 the ethics commission an amount equal to the fair value of the office space and
20 related services the office of management and budget renders to the ethics
21 commission.

22 **SECTION 8. AMENDMENT.** Section 54-66-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-66-05. Making a complaint - Summary dismissal of complaint.**

25 1. A complaint may be made to the commission orally or in writing. If a complainant does
26 not provide the complainant's name, address, and telephone number with the
27 complaint, the ethics commission may not investigate or take other action regarding
28 the complaint. The commission shall summarize each oral complaint in writing unless
29 the complaint must be disregarded under this section.

30 2. Upon receipt of a complaint or information regarding a violation, the commission may
31 summarily dismiss the complaint or decline to proceed with a complaint if the alleged

violation does not fall within the commission's jurisdiction, is insufficient to identify a possible violation, or fails to comply with rules adopted by the commission. In lieu of summary dismissal, the commission may refer the matter under section 54-66-08.

3. If a complainant would like the complainant's identity to remain confidential, the commission may not release the complainant's name and address to the ~~accused-individual~~respondent without the authorization of the complainant. If the complainant does not authorize release of the complainant's name and address to the ~~accused-individual~~respondent, the statement of the complainant may not be used as evidence of a violation.

4. If the commission receives an anonymous complaint that contains documentary or real evidence of possible criminal conduct, the commission may refer the matter to the appropriate law enforcement agency as provided under section 54-66-08, and may not otherwise divulge the documentary or real evidence.

SECTION 9. AMENDMENT. Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

54-66-06. Informing the ~~accused-individual~~respondent - Written response permitted.

1. Within thirty calendar days, the commission shall inform an ~~accused-individual~~respondent of the complaint. Subject to the confidentiality requirements set forth in section 54-66-05, the ~~accused-individual~~respondent will be provided with the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence included with the complaint. The ~~accused-individual~~respondent may provide a written response to the complaint within thirty calendar days, or after the commission requests a written response to the complaint or summary of the complaint, a period as set by the commission. This subsection does not preclude the ~~accused-individual~~respondent from providing a written response to the complaint before receiving a request for written response from the commission.

2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the ~~accused-individual~~respondent as required by this section, the notification to the ~~accused-individual~~respondent must include notice of the summary dismissal.

1 **SECTION 10. AMENDMENT.** Section 54-66-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-66-07. Informal resolution.**

4 The commission ~~shall attempt to~~may negotiate or mediate an informal resolution
5 ~~between with the accused individual~~respondent and the complainant unless the commission
6 summarily dismissed the complaint under section 54-66-05. The ~~accused individual~~respondent
7 may be accompanied by legal counsel in a negotiation or mediation. If the informal resolution
8 process between the respondent and the complainant is unsuccessful, the commission may
9 work with the respondent to settle and close the matter.

10 **SECTION 11. AMENDMENT.** Subsection 2 of section 54-66-08 of the North Dakota Century
11 Code is amended and reenacted as follows:

- 12 2. If the commission believes a complaint contains allegations of criminal conduct, the
13 matter ~~must~~may be coordinated with the appropriate law enforcement agency with
14 jurisdiction over the offense. If the law enforcement agency agrees to accept a referral
15 for ~~possible~~ criminal prosecution, the commission may not take further action on the
16 complaint until the law enforcement agency informs the commission law enforcement
17 proceedings regarding the complaint are complete. If the law enforcement agency
18 declines a referral for prosecution, the commission may investigate the complaint
19 under the rules adopted by the commission. If the law enforcement agency takes no
20 action on the referral for prosecution within sixty days, the commission may resume its
21 review of the complaint. Unless the agency accepting the referral objects, the
22 commission shall inform the complainant and respondent as soon as reasonably
23 possible of a referral and the nature of the referred allegations.

24 **SECTION 12. AMENDMENT.** Section 54-66-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-66-09. Investigation findings - Ethics commission determinations.**

- 27 1. An investigator, other than a law enforcement agency, of a complaint shall provide
28 written findings of the investigation to the ethics commission within a reasonable
29 amount of time. The ethics commission shall provide copies of the written findings and
30 evidence considered to the ~~accused individual~~respondent, who may respond to the
31 commission in person or in writing within a reasonable time. If the ~~accused~~

1 ~~individual~~respondent responds in person, no fewer than three members of the
2 commission shall meet in a closed meeting with the ~~accused individual~~respondent. An
3 ~~accused individual~~A respondent may be accompanied by legal counsel when
4 responding to the commission in person.

- 5 2. After providing a reasonable time for an ~~accused individual~~a respondent to respond to
6 the investigation findings and considering any response to the findings, the ethics
7 commission shall determine whether a violation of article XIV of the Constitution of
8 North Dakota, this chapter, or another law or rule regarding transparency, corruption,
9 elections, or lobbying occurred, and inform the ~~accused individual~~respondent of the
10 determination. If the commission determined a violation occurred, the commission may
11 impose a penalty authorized by law for the violation or refer the matter to the agency
12 with enforcement authority over the violation.
- 13 3. The commission may not terminate the employment of a public official or otherwise
14 remove a public official from the public official's public office.
- 15 4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling,
16 recommended finding of fact, recommended conclusion of law, finding of fact,
17 conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the
18 hearing officer failed to grant a request for disqualification under section 28-32-27 or
19 failed to comply with subsection 5 of section 2 of article XIV of the Constitution of
20 North Dakota.

21 **SECTION 13.** A new section to chapter 54-66 of the North Dakota Century Code is created
22 and enacted as follows:

23 Issuance of alleged violation - Closure of the matter.

- 24 1. Upon completion of an investigation, the executive director shall prepare a report and
25 recommendation to the commission to close the matter or issue an alleged violation.
26 The commission may issue an alleged violation, require additional investigation, or
27 close the matter.
- 28 2. If a complaint is received by the commission on or after July 1, 2025, the related case
29 must be closed within one hundred eighty days of receipt by the commission of the
30 underlying complaint, unless the commission finds good cause for the case to remain

1 open. Good cause may include a determination by the commission that additional
2 investigation is required.

3 **SECTION 14. AMENDMENT.** Section 54-66-10 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-66-10. Appeals.**

6 ~~An accused individual~~A respondent may appeal a finding of the ethics commission to the
7 district court of the county where the ~~accused individual~~respondent resides.

8 **SECTION 15. AMENDMENT.** Section 54-66-12 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-66-12. Confidential information.**

- 11 1. The following information is a confidential record as defined in section 44-04-17.1,
12 unless the commission has determined the ~~accused individual~~respondent violated
13 article XIV of the Constitution of North Dakota, this chapter, or another law or rule
14 regarding transparency, corruption, elections, or lobbying, and a court affirmed the
15 determination if appealed, except the information may be disclosed as required by law
16 or as necessary to conduct an investigation arising from a complaint:
- 17 a. Information revealing the contents of a complaint;
- 18 b. Information that reasonably may be used to identify ~~an accused individual~~a
19 respondent; and
- 20 c. Information relating to or created as part of an investigation of a complaint.
- 21 2. If a complaint is informally resolved under section 54-66-07, the following information
22 is a confidential record as defined in section 44-04-17.1:
- 23 a. Information revealing the contents of the complaint;
- 24 b. Information that reasonably may be used to identify the ~~accused~~
25 ~~individual~~respondent;
- 26 c. Information relating to or created as part of the process leading to the informal
27 resolution; and
- 28 d. Information revealing the informal resolution.
- 29 3. Information that reasonably may be used to identify the complainant is confidential
30 unless the complainant waives confidentiality, authorizes its disclosure, or divulges
31 information that reasonably would identify the complainant. Information, including

evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint to include disclosure of evidence being considered to ~~an accused individual~~ a respondent.

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

SECTION 16. 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.

SECTION 17. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Complaint management time standards.

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

SECTION 18. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Ethics commission annual report.

1. The ethics commission shall prepare an annual report each fiscal year. The ethics commission shall make the annual report available on its public website within sixty 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 19. EMERGENCY.** Sections 5, 6, 11, 12, 16, and 17 of this Act are declared to be
14 an emergency measure.

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2004 - Ethics Commission - Conference Committee Action

| | Base Budget | Senate Version | Conference Committee Changes | Conference Committee Version | House Version | Comparison to House |
|-------------------------|----------------|-------------------|------------------------------------|------------------------------------|------------------|------------------------|
| New and vacant FTE pool | | \$246,304 | (\$44,935) | \$201,369 | \$9,935 | \$191,434 |
| Ethics Commission | \$1,041,374 | 1,349,937 | 8,144 | 1,358,081 | 1,333,647 | 24,434 |
| Total all funds | \$1,041,374 | \$1,596,241 | (\$36,791) | \$1,559,450 | \$1,343,582 | \$215,868 |
| Less estimated income | 0 | 0 | 0 | 0 | 50,000 | (50,000) |
| General fund | \$1,041,374 | \$1,596,241 | (\$36,791) | \$1,559,450 | \$1,293,582 | \$265,868 |
| FTE | 3.00 | 4.00 | (0.25) | 3.75 | 3.00 | 0.75 |

Department 195 - Ethics Commission - Detail of Conference Committee Changes

| | Adjusts FTE Position Funding ¹ | Adds Salary Workload Funding ² | Total Conference Committee Changes |
|-------------------------|---|---|---|
| New and vacant FTE pool | (\$44,935) | | (\$44,935) |
| Ethics Commission | (16,290) | \$24,434 | 8,144 |
| Total all funds | (\$61,225) | \$24,434 | (\$36,791) |
| Less estimated income | 0 | 0 | 0 |
| General fund | (\$61,225) | \$24,434 | (\$36,791) |
| FTE | (0.25) | 0.00 | (0.25) |

¹ Funding is removed to convert a communication and education FTE position added by the Senate to a part-time communication and education position. The House did not provide funding for a communication and education FTE position.

² Additional salary funding is added for workload increases for an operations administrator position.

Senate Bill No. 2004 - Other Changes - Conference Committee Action

This amendment also:

- Provides one-time funding of \$50,000 from the general fund to implement the case management system, the same as provided by the Senate. The House provided one-time funding of \$50,000 from the strategic investment and improvements fund to implement the case management system.
- Creates and amends various sections relating to immunity, affirmative defense, the informal resolution process, and other provisions relating to the Ethics Commission.
- Amends various sections to change all references of accused individual to respondent within North Dakota Century Code Chapter 54-66.
- Creates a new section to require the Ethics Commission to prepare an annual report.
- Declares sections relating to immunity and affirmative defense to be an emergency measure.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 4:45 p.m.
4/30/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

4:45 p.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Full-Time Employee
- 180 Provision Limit

4:45 p.m. Chairman Mathern received a request to take this up to leadership and discussion will resume tomorrow.

4:50 p.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 9:30 a.m.
5/1/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

9:38 a.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Conflict in Bill

9:38 a.m. Chairman Mathern stated he is awaiting upon a new amendment. He called Liz Fordahl forward to explain a conflict in the bill of which conference committee members are unaware.

9:40 a.m. Liz Fordahl, Legislative Counsel, ND Ethics Commission, testified neutral, referred to previously submitted testimony #45346 from (4/30/2025), and explained there is a conflict with language.

9:46 a.m. Representative Louser stated that they need to take this back to leadership and the new amendment hasn't arrived that we are referring to.

9:49 a.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 1:00 p.m.
5/1/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

1:09 p.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Statute Conflict
- Full-Time Employee
- 180 Provision Limit

1:09 p.m. Chairman Mathern introduced amendment LC# 25.0171.02019, and submitted testimony #45353 and #45355.

1:10 p.m. Chairman Mathern started the discussion about a conflict in the statute of which the committee was not aware. Amendment LC# 25.0171.02019 does not include this conflict.

1:10 p.m. Senator Dever discussed his proposed amendment on page 10, section 13, subsection 3.

1:11 p.m. Representative Louser stated the House had suggested removing the 180-day time provision. If so, subsection 1 in section 13 should become the last sentence in subsection 1 of section 12. He suggested eliminating subsection 2 altogether which leaves the issue of can a respondent petition.

1:15 p.m. Logan Carpenter, General Counsel, ND Ethics Commission, testified neutral and answered committee questions concerning can a respondent petition.

1:17 p.m. Representative Louser restated the section for deletion is page 9, section 13, lines 28-30 and page 10, section 13, lines 1-2.

1:17 p.m. Logan Carpenter, General Counsel, ND Ethics Commission, testified neutral and asked questions about the need for page 10, lines 3-5 still reference subsection 2 so he assumes removing subsection 2.

1:20 p.m. Chairman Mathern received a consensus to accept changes to the amendment, but the House is not trading for the FTE issue.

1:22 p.m. Representative Louser moved to adopt amendment that transfers the language of Section 13 into Section 12.

Senator Davison seconded the motion.

Roll Call Vote: Motion Passed 6-0-0

1:25 p.m. Representative Hanson moved to further amendment by adding 1 FTE for educational purposes plus associated costs.

Senator Dever seconded the motion.

1:27 p.m. Grant Gader, Fiscal Analyst, LC, testified neutral and asked for clarification regarding the FTE position for educational purposes plus operational costs.

Roll Call Vote: Motion failed 4-2-0.

1:32 p.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

SB 2004 050125 1323 PM Roll Call Vote

Amendment

SB 2004

Date Submitted: May 1, 2025, 1:23 p.m.

Action: Passed

Amendment LC #: Pending LC #

Motioned By: Louser, Scott

Seconded By: Davison, Kyle

Emergency Clause: None

Vote Results: 6 - 0 - 0

Description: transfer language from
section 13 into section 12

| | |
|-------------------------|-----|
| Sen. Mathern, Tim | Yea |
| Sen. Dever, Dick | Yea |
| Sen. Davison, Kyle | Yea |
| Rep. Louser, Scott | Yea |
| Rep. Martinson, Bob | Yea |
| Rep. Hanson, Karla Rose | Yea |

SB 2004 050125 1330 PM Roll Call Vote

Amendment

SB 2004

Date Submitted: May 1, 2025, 1:30 p.m.

Action: Failed

Amendment LC #: Pending LC #

Motioned By: Hanson, Karla Rose

Seconded By: Dever, Dick

Emergency Clause: None

Vote Results: 4 - 2 - 0

Description: To add an FTE for educational purposes and operational costs.

| | |
|-------------------------|-----|
| Sen. Mathern, Tim | Yea |
| Sen. Dever, Dick | Yea |
| Sen. Davison, Kyle | Yea |
| Rep. Louser, Scott | Nay |
| Rep. Martinson, Bob | Nay |
| Rep. Hanson, Karla Rose | Yea |

25.0171.02019
Title.

Prepared by the Legislative Council
staff for Senator Mathern

May 1, 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 (25.0171.02019) 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 three 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 a matter of the ethics commission, rules for
5 complaint management time standards, and an ethics commission annual report; to amend and
6 reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07,
7 subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of
8 the North Dakota Century Code, relating to immunity from criminal prosecution, definitions,
9 ethics commission meetings, complaints, an informal resolution process, law enforcement
10 referrals, findings, appeals, confidential information related to a complaint, and conflicts of
11 interest; and to declare an emergency.

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

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

| | | | |
|----|-------------------|---------------------|----------------------|
| 18 | | Adjustments or | |
| 19 | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |

Sixty-ninth
Legislative Assembly

| | | | | |
|---|---|------------------------|----------------------|------------------------|
| 1 | Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 2 | New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 3 | Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 4 | Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| 5 | Ethics commission | \$1,041,374 | \$316,707 | \$1,358,081 |
| 6 | New and vacant FTE pool | 0 | 201,369 | 201,369 |
| 7 | Total general fund | \$1,041,374 | \$518,076 | \$1,559,450 |
| 8 | Full-time equivalent positions | 3.00 | 0.75 | 3.75 |

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 |
| Office furniture | 2,348 |
| Total | \$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. 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

1 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the
2 individual is or has been associated as a public servant, or in reliance on information
3 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
4 public servant, ~~he~~the individual:

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

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

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

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

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

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

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

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

from the individual voting on a measure in a legislative committee, the senate, or the house of 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. AMENDMENT. Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

54-66-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. ~~"Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.~~

~~2.~~ "Complainant" means an individual who, in writing or verbally, submits a complaint to the commission and is:

- a. A North Dakota resident;
- b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
- c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.

~~3-2.~~ "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

~~4-3.~~ "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.

~~5-4.~~ "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:

- a. Purely informational material;
- b. A campaign contribution; and

c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state.

~~6-5.~~ "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.

~~7-6.~~ "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.

~~8-7.~~ "Lobbyist" means an individual required to register under section 54-05.1-03.

~~9-8.~~ "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.

~~10-9.~~ "Receives the complaint" means one or more members of the commission learn of the complaint.

10. "Respondent" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

SECTION 7. AMENDMENT. Section 54-66-04 of the North Dakota Century Code is amended and reenacted as follows:

54-66-04. Ethics commission member terms - Meetings - Code of ethics - Compensation - Office.

1. The terms of the initial members of the ethics commission must be staggered to ensure no more than two members' terms expire in one year. The terms of the initial members may be less than four years to accommodate the required staggering of terms.
2. Unless the complaint at issue has resulted in the imposition of a penalty or referral for enforcement under section 54-66-09, any portion of a meeting during which commission members discuss complaints, informal resolutions, attempts to informally resolve complaints, investigations, or referrals under this chapter, the identity of an-

- 1 ~~accused individual~~ a respondent or complainant, or any other matter arising from a
2 complaint are closed meetings.
- 3 3. The commission shall abide by a code of ethics adopted in a public meeting. The code
4 of ethics must specify when a commission member is disqualified from participating in
5 matters before the commission.
- 6 4. Ethics commission members are entitled to:
- 7 a. Compensation for each day necessarily spent conducting commission business
8 in the amount provided for members of the legislative management under section
9 54-35-10; and
- 10 b. Payment for mileage and travel expenses necessarily incurred in the conduct of
11 commission business as provided under sections 44-08-04 and 54-06-09.
- 12 5. The director of the office of management and budget shall allocate office space in the
13 state capitol for the ethics commission, or, if office space in the capitol is unavailable,
14 shall negotiate for, contract for, and obtain office space for the ethics commission in
15 the city of Bismarck or in the Bismarck area. The ethics commission's office space
16 may not be located in the office space of any other government agency, board,
17 commission, or other governmental entity, and must provide sufficient privacy and
18 security for the ethics commission to conduct its business. The director shall charge
19 the ethics commission an amount equal to the fair value of the office space and
20 related services the office of management and budget renders to the ethics
21 commission.

22 **SECTION 8. AMENDMENT.** Section 54-66-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-66-05. Making a complaint - Summary dismissal of complaint.**

- 25 1. A complaint may be made to the commission orally or in writing. If a complainant does
26 not provide the complainant's name, address, and telephone number with the
27 complaint, the ethics commission may not investigate or take other action regarding
28 the complaint. The commission shall summarize each oral complaint in writing unless
29 the complaint must be disregarded under this section.
- 30 2. Upon receipt of a complaint or information regarding a violation, the commission may
31 summarily dismiss the complaint or decline to proceed with a complaint if the alleged

violation does not fall within the commission's jurisdiction, is insufficient to identify a possible violation, or fails to comply with rules adopted by the commission. In lieu of summary dismissal, the commission may refer the matter under section 54-66-08.

3. If a complainant would like the complainant's identity to remain confidential, the commission may not release the complainant's name and address to the ~~accused-individual~~respondent without the authorization of the complainant. If the complainant does not authorize release of the complainant's name and address to the ~~accused-individual~~respondent, the statement of the complainant may not be used as evidence of a violation.
4. If the commission receives an anonymous complaint that contains documentary or real evidence of possible criminal conduct, the commission may refer the matter to the appropriate law enforcement agency as provided under section 54-66-08, and may not otherwise divulge the documentary or real evidence.

SECTION 9. AMENDMENT. Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

54-66-06. Informing the ~~accused-individual~~respondent - Written response permitted.

1. Within thirty calendar days, the commission shall inform ~~an accused individual~~a respondent of the complaint. Subject to the confidentiality requirements set forth in section 54-66-05, the ~~accused-individual~~respondent will be provided with the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence included with the complaint. The ~~accused-individual~~respondent may provide a written response to the complaint within thirty calendar days, or after the commission requests a written response to the complaint or summary of the complaint, a period as set by the commission. This subsection does not preclude the ~~accused-individual~~respondent from providing a written response to the complaint before receiving a request for written response from the commission.
2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the ~~accused-individual~~respondent as required by this section, the notification to the ~~accused-individual~~respondent must include notice of the summary dismissal.

1 **SECTION 10. AMENDMENT.** Section 54-66-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-66-07. Informal resolution.**

4 The commission shall attempt to negotiate or mediate an informal resolution between the
5 ~~accused individual~~respondent and the complainant unless the commission summarily dismissed
6 the complaint under section 54-66-05. The ~~accused individual~~respondent may be accompanied
7 by legal counsel in a negotiation or mediation. If the informal resolution process between the
8 respondent and the complainant is unsuccessful, the commission may work with the respondent
9 to settle and close the matter.

10 **SECTION 11. AMENDMENT.** Subsection 2 of section 54-66-08 of the North Dakota Century
11 Code is amended and reenacted as follows:

- 12 2. If the commission believes a complaint contains allegations of criminal conduct, the
13 matter ~~must~~may be coordinated with the appropriate law enforcement agency with
14 jurisdiction over the offense. If the law enforcement agency agrees to accept a referral
15 for ~~possible~~criminal prosecution, the commission may not take further action on the
16 complaint until the law enforcement agency informs the commission law enforcement
17 proceedings regarding the complaint are complete. If the law enforcement agency
18 declines a referral for prosecution, the commission may investigate the complaint
19 under the rules adopted by the commission. If the law enforcement agency takes no
20 action on the referral for prosecution within sixty days, the commission may resume its
21 review of the complaint. Unless the agency accepting the referral objects, the
22 commission shall inform the complainant and respondent as soon as reasonably
23 possible of a referral and the nature of the referred allegations.

24 **SECTION 12. AMENDMENT.** Section 54-66-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-66-09. Investigation findings - Ethics commission determinations.**

- 27 1. An investigator, other than a law enforcement agency, of a complaint shall provide
28 written findings of the investigation to the ethics commission within a reasonable
29 amount of time. The ethics commission shall provide copies of the written findings and
30 evidence considered to the ~~accused individual~~respondent, who may respond to the
31 commission in person or in writing within a reasonable time. If the ~~accused-~~

1 ~~individual~~respondent responds in person, no fewer than three members of the
2 commission shall meet in a closed meeting with the ~~accused individual~~respondent. An
3 ~~accused individual~~A respondent may be accompanied by legal counsel when
4 responding to the commission in person.

- 5 2. After providing a reasonable time for ~~an accused individual~~a respondent to respond to
6 the investigation findings and considering any response to the findings, the ethics
7 commission shall determine whether a violation of article XIV of the Constitution of
8 North Dakota, this chapter, or another law or rule regarding transparency, corruption,
9 elections, or lobbying occurred, and inform the ~~accused individual~~respondent of the
10 determination. If the commission determined a violation occurred, the commission may
11 impose a penalty authorized by law for the violation or refer the matter to the agency
12 with enforcement authority over the violation.
- 13 3. The commission may not terminate the employment of a public official or otherwise
14 remove a public official from the public official's public office.
- 15 4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling,
16 recommended finding of fact, recommended conclusion of law, finding of fact,
17 conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the
18 hearing officer failed to grant a request for disqualification under section 28-32-27 or
19 failed to comply with subsection 5 of section 2 of article XIV of the Constitution of
20 North Dakota.

21 **SECTION 13.** A new section to chapter 54-66 of the North Dakota Century Code is created
22 and enacted as follows:

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

- 24 1. Upon completion of an investigation, the executive director shall prepare a report and
25 recommendation to the commission to close the matter or issue an alleged violation.
26 The commission may issue an alleged violation, require additional investigation, or
27 close the matter.
- 28 2. If a complaint is received by the commission on or after July 1, 2025, the related case
29 must be closed within one hundred eighty days of receipt by the commission of the
30 underlying complaint, unless the commission finds good cause for the case to remain

1 open. Good cause may include a determination by the commission that additional
2 investigation is required.

3 3. If the case remains open for good cause under subsection 2, the respondent may
4 petition the commission to dismiss the complaint in the manner prescribed by the
5 commission.

6 **SECTION 14. AMENDMENT.** Section 54-66-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-66-10. Appeals.**

9 ~~An accused individual~~ A respondent may appeal a finding of the ethics commission to the
10 district court of the county where the ~~accused individual~~ respondent resides.

11 **SECTION 15. AMENDMENT.** Section 54-66-12 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **54-66-12. Confidential information.**

- 14 1. The following information is a confidential record as defined in section 44-04-17.1,
15 unless the commission has determined the ~~accused individual~~ respondent violated
16 article XIV of the Constitution of North Dakota, this chapter, or another law or rule
17 regarding transparency, corruption, elections, or lobbying, and a court affirmed the
18 determination if appealed, except the information may be disclosed as required by law
19 or as necessary to conduct an investigation arising from a complaint:
- 20 a. Information revealing the contents of a complaint;
 - 21 b. Information that reasonably may be used to identify ~~an accused individual~~ a
22 respondent; and
 - 23 c. Information relating to or created as part of an investigation of a complaint.
- 24 2. If a complaint is informally resolved under section 54-66-07, the following information
25 is a confidential record as defined in section 44-04-17.1:
- 26 a. Information revealing the contents of the complaint;
 - 27 b. Information that reasonably may be used to identify the ~~accused-~~
28 ~~individual~~ respondent;
 - 29 c. Information relating to or created as part of the process leading to the informal
30 resolution; and
 - 31 d. Information revealing the informal resolution.

3. Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. Information, including evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint to include disclosure of evidence being considered to ~~an accused individual~~ a respondent.

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

SECTION 16. 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.

SECTION 17. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Complaint management time standards.

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

SECTION 18. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Ethics commission annual report.

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

2. The annual report must include:

a. The number of complaints received by the commission, the status of those complaints, the commission's actions to resolve the complaints, and the timing related to those actions;

b. The number of advisory opinions requested and issued, as well as information regarding general conflict disclosures and quasi-judicial disclosures received; and

c. Information regarding education and outreach and the status of the commission's budget.

3. The annual report may include recommendations for new or revised laws, rules, or policies that could improve the confidence that North Dakota citizens have in their government.

SECTION 19. EMERGENCY. Sections 4, 5, 10, 11, 13, 15, and 16 of this Act are declared to be an emergency measure.

SB 2004
5-1-25
25.0171.02020
Title.

Prepared by the Legislative Council
staff for Senator Mathern

May 1, 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 (25.0171.02020) as follows:

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 three 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 a matter of the ethics commission, rules for complaint management time standards, and an ethics commission annual report; to amend and reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07, subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of the North Dakota Century Code, relating to immunity from criminal prosecution, definitions, ethics commission meetings, complaints, an informal resolution process, law enforcement referrals, findings, appeals, confidential information related to a complaint, 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

Sixty-ninth
Legislative Assembly

| | | | | |
|---|---|------------------------|----------------------|------------------------|
| 1 | Ethics commission | \$1,041,374 | \$308,563 | \$1,349,937 |
| 2 | New and vacant FTE pool | 0 | 246,304 | 246,304 |
| 3 | Total general fund | \$1,041,374 | \$554,867 | \$1,596,241 |
| 4 | Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| 5 | <u>Ethics commission</u> | <u>\$1,041,374</u> | <u>\$316,707</u> | <u>\$1,358,081</u> |
| 6 | <u>New and vacant FTE pool</u> | <u>0</u> | <u>201,369</u> | <u>201,369</u> |
| 7 | <u>Total general fund</u> | <u>\$1,041,374</u> | <u>\$518,076</u> | <u>\$1,559,450</u> |
| 8 | <u>Full-time equivalent positions</u> | <u>3.00</u> | <u>0.75</u> | <u>3.75</u> |

9 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
10 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
11 items included in the appropriation in section 1 of this Act which are not included in the entity's
12 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
13 committees of the seventieth legislative assembly regarding the use of this funding:

| | | |
|----|--|---------------------|
| 14 | <u>One-Time Funding Description</u> | <u>General Fund</u> |
| 15 | Case management system | \$50,000 |
| 16 | Office furniture | 2,348 |
| 17 | New FTE position one-time costs | 5,484 |
| 18 | Total | \$57,832 |
| 19 | <u>Office furniture</u> | <u>2,348</u> |
| 20 | <u>Total</u> | <u>\$52,348</u> |

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

27 **SECTION 4. AMENDMENT.** Section 12.1-13-02 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **12.1-13-02. Speculating or wagering on official action or information.**

- 30 1. ~~A person~~An individual is guilty of a class A misdemeanor if during employment as a
31 public servant, or within one year thereafter, in contemplation of official action by

1 ~~himself~~the individual as a public servant or by a government agency with which ~~he~~the
2 individual is or has been associated as a public servant, or in reliance on information
3 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a
4 public servant, ~~he~~the individual:

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

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

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

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

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

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

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

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

from the individual voting on a measure in a legislative committee, the senate, or the house of 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. AMENDMENT. Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

54-66-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. ~~"Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.~~

~~2.~~ "Complainant" means an individual who, in writing or verbally, submits a complaint to the commission and is:

- a. A North Dakota resident;
- b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
- c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.

~~3.2.~~ "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

~~4.3.~~ "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.

~~5.4.~~ "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:

- a. Purely informational material;
- b. A campaign contribution; and

c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state.

~~6.5.~~ "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.

~~7.6.~~ "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.

~~8.7.~~ "Lobbyist" means an individual required to register under section 54-05.1-03.

~~9.8.~~ "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.

~~10.9.~~ "Receives the complaint" means one or more members of the commission learn of the complaint.

10. "Respondent" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

SECTION 7. AMENDMENT. Section 54-66-04 of the North Dakota Century Code is amended and reenacted as follows:

54-66-04. Ethics commission member terms - Meetings - Code of ethics - Compensation - Office.

1. The terms of the initial members of the ethics commission must be staggered to ensure no more than two members' terms expire in one year. The terms of the initial members may be less than four years to accommodate the required staggering of terms.

2. Unless the complaint at issue has resulted in the imposition of a penalty or referral for enforcement under section 54-66-09, any portion of a meeting during which commission members discuss complaints, informal resolutions, attempts to informally resolve complaints, investigations, or referrals under this chapter, the identity of an

- 1 ~~accused individual~~ a respondent or complainant, or any other matter arising from a
2 complaint are closed meetings.
- 3 3. The commission shall abide by a code of ethics adopted in a public meeting. The code
4 of ethics must specify when a commission member is disqualified from participating in
5 matters before the commission.
- 6 4. Ethics commission members are entitled to:
- 7 a. Compensation for each day necessarily spent conducting commission business
8 in the amount provided for members of the legislative management under section
9 54-35-10; and
- 10 b. Payment for mileage and travel expenses necessarily incurred in the conduct of
11 commission business as provided under sections 44-08-04 and 54-06-09.
- 12 5. The director of the office of management and budget shall allocate office space in the
13 state capitol for the ethics commission, or, if office space in the capitol is unavailable,
14 shall negotiate for, contract for, and obtain office space for the ethics commission in
15 the city of Bismarck or in the Bismarck area. The ethics commission's office space
16 may not be located in the office space of any other government agency, board,
17 commission, or other governmental entity, and must provide sufficient privacy and
18 security for the ethics commission to conduct its business. The director shall charge
19 the ethics commission an amount equal to the fair value of the office space and
20 related services the office of management and budget renders to the ethics
21 commission.

22 **SECTION 8. AMENDMENT.** Section 54-66-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **54-66-05. Making a complaint - Summary dismissal of complaint.**

- 25 1. A complaint may be made to the commission orally or in writing. If a complainant does
26 not provide the complainant's name, address, and telephone number with the
27 complaint, the ethics commission may not investigate or take other action regarding
28 the complaint. The commission shall summarize each oral complaint in writing unless
29 the complaint must be disregarded under this section.
- 30 2. Upon receipt of a complaint or information regarding a violation, the commission may
31 summarily dismiss the complaint or decline to proceed with a complaint if the alleged

violation does not fall within the commission's jurisdiction, is insufficient to identify a possible violation, or fails to comply with rules adopted by the commission. In lieu of summary dismissal, the commission may refer the matter under section 54-66-08.

3. If a complainant would like the complainant's identity to remain confidential, the commission may not release the complainant's name and address to the ~~accused individual~~ respondent without the authorization of the complainant. If the complainant does not authorize release of the complainant's name and address to the ~~accused individual~~ respondent, the statement of the complainant may not be used as evidence of a violation.
4. If the commission receives an anonymous complaint that contains documentary or real evidence of possible criminal conduct, the commission may refer the matter to the appropriate law enforcement agency as provided under section 54-66-08, and may not otherwise divulge the documentary or real evidence.

SECTION 9. AMENDMENT. Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

54-66-06. Informing the ~~accused individual~~ respondent - Written response permitted.

1. Within thirty calendar days, the commission shall inform ~~an accused individual~~ a respondent of the complaint. Subject to the confidentiality requirements set forth in section 54-66-05, the ~~accused individual~~ respondent will be provided with the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence included with the complaint. The ~~accused individual~~ respondent may provide a written response to the complaint within thirty calendar days, or after the commission requests a written response to the complaint or summary of the complaint, a period as set by the commission. This subsection does not preclude the ~~accused individual~~ respondent from providing a written response to the complaint before receiving a request for written response from the commission.
2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the ~~accused individual~~ respondent as required by this section, the notification to the ~~accused individual~~ respondent must include notice of the summary dismissal.

SECTION 10. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

The commission shall attempt to negotiate or mediate an informal resolution between the ~~accused individual~~ respondent and the complainant unless the commission summarily dismissed the complaint under section 54-66-05. The ~~accused individual~~ respondent may be accompanied by legal counsel in a negotiation or mediation. If the informal resolution process between the respondent and the complainant is unsuccessful, the commission may work with the respondent to settle and close the matter.

SECTION 11. AMENDMENT. Subsection 2 of section 54-66-08 of the North Dakota Century Code is amended and reenacted as follows:

2. If the commission believes a complaint contains allegations of criminal conduct, the matter ~~must~~ may be coordinated with the appropriate law enforcement agency with jurisdiction over the offense. If the law enforcement agency agrees to accept a referral for ~~possible~~ criminal prosecution, the commission may not take further action on the complaint until the law enforcement agency informs the commission law enforcement proceedings regarding the complaint are complete. If the law enforcement agency declines a referral for prosecution, the commission may investigate the complaint under the rules adopted by the commission. If the law enforcement agency takes no action on the referral for prosecution within sixty days, the commission may resume its review of the complaint. Unless the agency accepting the referral objects, the commission shall inform the complainant and respondent as soon as reasonably possible of a referral and the nature of the referred allegations.

SECTION 12. AMENDMENT. Section 54-66-09 of the North Dakota Century Code is amended and reenacted as follows:

54-66-09. Investigation findings - Ethics commission determinations.

1. An investigator, other than a law enforcement agency, of a complaint shall provide written findings of the investigation to the ethics commission within a reasonable amount of time. The ethics commission shall provide copies of the written findings and evidence considered to the ~~accused individual~~ respondent, who may respond to the commission in person or in writing within a reasonable time. If the ~~accused~~

1 ~~individual~~respondent responds in person, no fewer than three members of the
2 commission shall meet in a closed meeting with the ~~accused individual~~respondent. An
3 ~~accused individual~~A respondent may be accompanied by legal counsel when
4 responding to the commission in person.

- 5 2. After providing a reasonable time for ~~an accused individual~~a respondent to respond to
6 the investigation findings and considering any response to the findings, the ethics
7 commission shall determine whether a violation of article XIV of the Constitution of
8 North Dakota, this chapter, or another law or rule regarding transparency, corruption,
9 elections, or lobbying occurred, and inform the ~~accused individual~~respondent of the
10 determination. If the commission determined a violation occurred, the commission may
11 impose a penalty authorized by law for the violation or refer the matter to the agency
12 with enforcement authority over the violation.
- 13 3. The commission may not terminate the employment of a public official or otherwise
14 remove a public official from the public official's public office.
- 15 4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling,
16 recommended finding of fact, recommended conclusion of law, finding of fact,
17 conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the
18 hearing officer failed to grant a request for disqualification under section 28-32-27 or
19 failed to comply with subsection 5 of section 2 of article XIV of the Constitution of
20 North Dakota.

21 **SECTION 13.** A new section to chapter 54-66 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Closure of the matter.**

- 24 1. A case arising from a complaint received by the commission on or after July 1, 2025
25 must be closed within one hundred eighty days of receipt by the commission of the
26 underlying complaint, unless the commission finds good cause for the case to remain
27 open. Good cause may include a determination by the commission that additional
28 investigation is required.
- 29 2. If the case remains open for good cause under subsection 1, the respondent may
30 petition the commission to dismiss the complaint in the manner prescribed by the
31 commission.

SECTION 14. AMENDMENT. Section 54-66-10 of the North Dakota Century Code is amended and reenacted as follows:

54-66-10. Appeals.

~~An accused individual~~A respondent may appeal a finding of the ethics commission to the district court of the county where the ~~accused individual~~respondent resides.

SECTION 15. AMENDMENT. Section 54-66-12 of the North Dakota Century Code is amended and reenacted as follows:

54-66-12. Confidential information.

1. The following information is a confidential record as defined in section 44-04-17.1, unless the commission has determined the ~~accused individual~~respondent violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying, and a court affirmed the determination if appealed, except the information may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint:
 - a. Information revealing the contents of a complaint;
 - b. Information that reasonably may be used to identify ~~an accused individual~~a respondent; and
 - c. Information relating to or created as part of an investigation of a complaint.
2. If a complaint is informally resolved under section 54-66-07, the following information is a confidential record as defined in section 44-04-17.1:
 - a. Information revealing the contents of the complaint;
 - b. Information that reasonably may be used to identify the ~~accused individual~~respondent;
 - c. Information relating to or created as part of the process leading to the informal resolution; and
 - d. Information revealing the informal resolution.
3. Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. Information, including evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct

1 an investigation arising from a complaint to include disclosure of evidence being
2 considered to ~~an accused individual~~ a respondent.

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

6 **SECTION 16. AMENDMENT.** Section 54-66-18 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-66-18. Conflicts of interest - Legislative assembly.**

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

19 **SECTION 17.** A new section to chapter 54-66 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Complaint management time standards.**

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

24 **SECTION 18.** A new section to chapter 54-66 of the North Dakota Century Code is created
25 and enacted as follows:

26 **Ethics commission annual report.**

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

- 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 19. EMERGENCY.** Sections 4, 5, 10, 11, 13, 15, and 16 of this Act are declared
- 13 to be an emergency measure.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2004 1000 a.m.
5/2/2025

Conference Committee

A Bill for an Act to provide an appropriation for defraying the expenses of the ethics commission.

10:01 a.m. Chairman Mathern opened the hearing.

Members Present: Chairman Mathern, Senator Dever, Senator Davison, Representative Louser, Representative Martinson, Representative Hanson

Discussion Topics:

- Committee Action

10:01 a.m. Chairman Mathern introduced LC #25.0171.02022 and submitted testimony #35365.

10:01 a.m. Grant Gader, Fiscal Analyst, LC, discussed the LC# 25.0171.02022 amendment and the two changes from LC #25.0171.02019 which are to remove the FTE funding and to remove section 13.

10:04 a.m. Senator Davison, moved to Reconsider Amendment LC#25.0171.02019.

10:04 a.m. Representative Louser seconded the motion.

Voice Vote: Motion passed.

10:08 a.m. Senator Davison moved in place of House amendment LC #25.0172.02007 adopted by the House, the bill is amended by the conference committee amendment LC #25.0171.02022.

10:08 a.m. Senator Dever seconded the motion.

10:09 a.m. Roll Call Vote. Motion passed. 4-2-0

Senator Mathern will carry the bill.

Representative Louser will carry the bill.

10:10 a.m. Chairman Mathern closed the hearing.

Joan Bares, Committee Clerk

May 2, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

5/2/25 VC
1 of 13

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 (25.0171.02022) 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, closure of a matter of the ethics commission, rules for
5 complaint management time standards, and an ethics commission annual report; to amend and
6 reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07,
7 subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of
8 the North Dakota Century Code, relating to immunity from criminal prosecution, definitions,
9 ethics commission meetings, complaints, an informal resolution process, law enforcement
10 referrals, findings, appeals, confidential information related to a complaint, and conflicts of
11 interest; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

13 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
14 as may be necessary, are appropriated out of any moneys in the general fund in the state
15 treasury, not otherwise appropriated, to the ethics commission for the purpose of defraying the
16 expenses of the ethics commission, for the biennium beginning July 1, 2025, and ending
17 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 |
| Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| Ethics commission | \$1,041,374 | \$316,707 | \$1,358,081 |
| New and vacant FTE pool | 0 | 9,935 | 9,935 |
| Total general fund | \$1,041,374 | \$326,642 | \$1,368,016 |
| 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:

| One-Time Funding Description | General Fund |
|---------------------------------|--------------|
| Case management system | \$50,000 |
| Office furniture | 2,348 |
| New FTE position one-time costs | 5,484 |
| Total | \$57,832 |
| Office furniture | 2,348 |
| Total | \$52,348 |

SECTION 3. NEW AND VACANT ~~FTE~~FULL-TIME EQUIVALENT POOL - LIMITATION -

TRANSFER REQUEST. The ethics commission may not spend funds appropriated in the new and vacant ~~FTE~~full-time equivalent 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~~full-time equivalent 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the

president of the senate, or the speaker of the house, the individual and an organization for which the individual is an agent, as defined in section 12.1-03-04, is immune from criminal prosecution under the laws of this state for an offense arising from the individual voting on a measure in a legislative committee, the senate, or the house of 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. AMENDMENT. Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

54-66-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. ~~"Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.~~

~~2.~~ "Complainant" means an individual who, in writing or verbally, submits a complaint to the commission and is:

- a. A North Dakota resident;
- b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
- c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.

~~3.2.~~ "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

~~4.3.~~ "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.

~~5.4.~~ "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:

- a. Purely informational material;
- b. A campaign contribution; and
- c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state.

~~6.5.~~ "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.

~~7.6.~~ "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.

~~8.7.~~ "Lobbyist" means an individual required to register under section 54-05.1-03.

~~9.8.~~ "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.

~~10.9.~~ "Receives the complaint" means one or more members of the commission learn of the complaint.

10. "Respondent" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

SECTION 7. AMENDMENT. Section 54-66-04 of the North Dakota Century Code is amended and reenacted as follows:

54-66-04. Ethics commission member terms - Meetings - Code of ethics - Compensation - Office.

1. The terms of the initial members of the ethics commission must be staggered to ensure no more than two members' terms expire in one year. The terms of the initial members may be less than four years to accommodate the required staggering of terms.

2. Unless the complaint at issue has resulted in the imposition of a penalty or referral for enforcement under section 54-66-09, any portion of a meeting during which commission members discuss complaints, informal resolutions, attempts to informally resolve complaints, investigations, or referrals under this chapter, the identity of ~~an accused individual~~ a respondent or complainant, or any other matter arising from a complaint are closed meetings.
3. The commission shall abide by a code of ethics adopted in a public meeting. The code of ethics must specify when a commission member is disqualified from participating in matters before the commission.
4. Ethics commission members are entitled to:
 - a. Compensation for each day necessarily spent conducting commission business in the amount provided for members of the legislative management under section 54-35-10; and
 - b. Payment for mileage and travel expenses necessarily incurred in the conduct of commission business as provided under sections 44-08-04 and 54-06-09.
5. The director of the office of management and budget shall allocate office space in the state capitol for the ethics commission, or, if office space in the capitol is unavailable, shall negotiate for, contract for, and obtain office space for the ethics commission in the city of Bismarck or in the Bismarck area. The ethics commission's office space may not be located in the office space of any other government agency, board, commission, or other governmental entity, and must provide sufficient privacy and security for the ethics commission to conduct its business. The director shall charge the ethics commission an amount equal to the fair value of the office space and related services the office of management and budget renders to the ethics commission.

SECTION 8. AMENDMENT. Section 54-66-05 of the North Dakota Century Code is amended and reenacted as follows:

54-66-05. Making a complaint - Summary dismissal of complaint.

1. A complaint may be made to the commission orally or in writing. If a complainant does not provide the complainant's name, address, and telephone number with the complaint, the ethics commission may not investigate or take other action regarding

the complaint. The commission shall summarize each oral complaint in writing unless the complaint must be disregarded under this section.

2. Upon receipt of a complaint or information regarding a violation, the commission may summarily dismiss the complaint or decline to proceed with a complaint if the alleged violation does not fall within the commission's jurisdiction, is insufficient to identify a possible violation, or fails to comply with rules adopted by the commission. In lieu of summary dismissal, the commission may refer the matter under section 54-66-08.
3. If a complainant would like the complainant's identity to remain confidential, the commission may not release the complainant's name and address to the ~~accused individual~~respondent without the authorization of the complainant. If the complainant does not authorize release of the complainant's name and address to the ~~accused individual~~respondent, the statement of the complainant may not be used as evidence of a violation.
4. If the commission receives an anonymous complaint that contains documentary or real evidence of possible criminal conduct, the commission may refer the matter to the appropriate law enforcement agency as provided under section 54-66-08, and may not otherwise divulge the documentary or real evidence.

SECTION 9. AMENDMENT. Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

54-66-06. Informing the ~~accused individual~~respondent - Written response permitted - Petition to dismiss complaint.

1. Within thirty calendar days, the commission shall inform ~~an accused individual~~a respondent of the complaint. Subject to the confidentiality requirements set forth in section 54-66-05, the ~~accused individual~~respondent will be provided with the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence included with the complaint. The ~~accused individual~~respondent may provide a written response to the complaint within thirty calendar days, or after the commission requests a written response to the complaint or summary of the complaint, a period as set by the commission. This subsection does not preclude the ~~accused individual~~respondent from providing a written response to the complaint before receiving a request for written response from the commission.

2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the ~~accused individual~~respondent as required by this section, the notification to the ~~accused individual~~respondent must include notice of the summary dismissal.

SECTION 10. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

The commission shall attempt to negotiate or mediate an informal resolution between the ~~accused individual~~respondent and the complainant unless the commission summarily dismissed the complaint under section 54-66-05. The ~~accused individual~~respondent may be accompanied by legal counsel in a negotiation or mediation. If the informal resolution process between the respondent and the complainant is unsuccessful, the commission may work with the respondent to settle and close the matter.

SECTION 11. AMENDMENT. Subsection 2 of section 54-66-08 of the North Dakota Century Code is amended and reenacted as follows:

2. If the commission believes a complaint contains allegations of criminal conduct, the matter ~~must~~may be coordinated with the appropriate law enforcement agency with jurisdiction over the offense. If the law enforcement agency agrees to accept a referral for ~~possible~~criminal prosecution, the commission may not take further action on the complaint until the law enforcement agency informs the commission law enforcement proceedings regarding the complaint are complete. If the law enforcement agency declines a referral for prosecution, the commission may investigate the complaint under the rules adopted by the commission. If the law enforcement agency takes no action on the referral for prosecution within sixty days, the commission may resume its review of the complaint. Unless the agency accepting the referral objects, the commission shall inform the complainant and respondent as soon as reasonably possible of a referral and the nature of the referred allegations.

SECTION 12. AMENDMENT. Section 54-66-09 of the North Dakota Century Code is amended and reenacted as follows:

54-66-09. Investigation findings - Ethics commission determinations.

1. An investigator, other than a law enforcement agency, of a complaint shall provide written findings of the investigation to the ethics commission within a reasonable amount of time. The ethics commission shall provide copies of the written findings and evidence considered to the ~~accused individual~~respondent, who may respond to the commission in person or in writing within a reasonable time. If the ~~accused individual~~respondent responds in person, no fewer than three members of the commission shall meet in a closed meeting with the ~~accused individual~~respondent. ~~An accused individual~~A respondent may be accompanied by legal counsel when responding to the commission in person. 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.
2. After providing a reasonable time for ~~an accused individual~~a respondent to respond to the investigation findings and considering any response to the findings, the ethics commission shall determine whether a violation of article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying occurred, and inform the ~~accused individual~~respondent of the determination. If the commission determined a violation occurred, the commission may impose a penalty authorized by law for the violation or refer the matter to the agency with enforcement authority over the violation.
3. The commission may not terminate the employment of a public official or otherwise remove a public official from the public official's public office.
4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling, recommended finding of fact, recommended conclusion of law, finding of fact, conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the hearing officer failed to grant a request for disqualification under section 28-32-27 or failed to comply with subsection 5 of section 2 of article XIV of the Constitution of North Dakota.
5. The respondent may petition the commission at any time to dismiss the complaint in the manner prescribed by the commission.

SECTION 13. AMENDMENT. Section 54-66-10 of the North Dakota Century Code is amended and reenacted as follows:

54-66-10. Appeals.

~~An accused individual~~ A respondent may appeal a finding of the ethics commission to the district court of the county where the ~~accused individual~~ respondent resides.

SECTION 14. AMENDMENT. Section 54-66-12 of the North Dakota Century Code is amended and reenacted as follows:

54-66-12. Confidential information.

1. The following information is a confidential record as defined in section 44-04-17.1, unless the commission has determined the ~~accused individual~~ respondent violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying, and a court affirmed the determination if appealed, except the information may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint:
 - a. Information revealing the contents of a complaint;
 - b. Information that reasonably may be used to identify ~~an accused individual~~ a respondent; and
 - c. Information relating to or created as part of an investigation of a complaint.
2. If a complaint is informally resolved under section 54-66-07, the following information is a confidential record as defined in section 44-04-17.1:
 - a. Information revealing the contents of the complaint;
 - b. Information that reasonably may be used to identify the ~~accused individual~~ respondent;
 - c. Information relating to or created as part of the process leading to the informal resolution; and
 - d. Information revealing the informal resolution.
3. Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. Information, including evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct

an investigation arising from a complaint to include disclosure of evidence being considered to ~~an accused individual~~ a respondent.

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

SECTION 15. 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.

SECTION 16. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Complaint management time standards.

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

SECTION 17. A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

Ethics commission annual report.

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

- 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 18. EMERGENCY.** Sections 4, 5, 10, 11, 14, and 15 of this Act are declared to be
13 an emergency measure.

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

| | Base Budget | Senate Version | Conference Committee Changes | Conference Committee Version | House Version | Comparison to House |
|-------------------------|----------------|-------------------|------------------------------------|------------------------------------|------------------|------------------------|
| New and vacant FTE pool | | \$246,304 | (\$236,369) | \$9,935 | \$9,935 | |
| Ethics Commission | \$1,041,374 | 1,349,937 | 8,144 | 1,358,081 | 1,333,647 | \$24,434 |
| Total all funds | \$1,041,374 | \$1,596,241 | (\$228,225) | \$1,368,016 | \$1,343,582 | \$24,434 |
| Less estimated income | 0 | 0 | 0 | 0 | 50,000 | (50,000) |
| General fund | \$1,041,374 | \$1,596,241 | (\$228,225) | \$1,368,016 | \$1,293,582 | \$74,434 |
| FTE | 3.00 | 4.00 | (1.00) | 3.00 | 3.00 | 0.00 |

Department 195 - Ethics Commission - Detail of Conference Committee Changes

| | Removes Communication and Education FTE Position ¹ | Adds Salary Workload Funding ² | Total Conference Committee Changes |
|-------------------------|--|---|---|
| New and vacant FTE pool | (\$236,369) | | (\$236,369) |
| Ethics Commission | (16,290) | \$24,434 | 8,144 |
| Total all funds | (\$252,659) | \$24,434 | (\$228,225) |
| Less estimated income | 0 | 0 | 0 |
| General fund | (\$252,659) | \$24,434 | (\$228,225) |
| FTE | (1.00) | 0.00 | (1.00) |

¹ A communication and education FTE position and related operating costs added by the Senate are removed, the same as provided by the House.

² Additional salary funding is added for workload increases for an operations administrator position. The Senate and House did not add funding for this purpose prior to the conference committee amendments.

Senate Bill No. 2004 - Other Changes - Conference Committee Action

This amendment also:

- Provides one-time funding of \$50,000 from the general fund to implement the case management system, the same as provided by the Senate. The House provided one-time funding of \$50,000 from the strategic investment and improvements fund to implement the case management system.
- Creates and amends various sections relating to immunity, affirmative defense, the informal resolution process, and other provisions relating to the Ethics Commission.
- Amends various sections to change all references of accused individual to respondent within North Dakota Century Code Chapter 54-66.
- Creates a new section to require the Ethics Commission to prepare an annual report.
- Declares sections relating to immunity and affirmative defense to be an emergency measure.

SB 2004 050225 1009 AM Roll Call Vote

Final Recommendation

SB 2004

Date Submitted: May 2, 2025, 10:09 a.m.

Recommendation: In Place Of

Amendment LC #: 25.0171.02022

Engrossed LC #: N/A

Motioned By: Davison, Kyle

Seconded By: Dever, Dick

House Carrier: Louser, Scott

Senate Carrier: Mathern, Tim

Emergency Clause: None

Vote Results: 4 - 2 - 0

Description: Remove FTE and Section 13

| | |
|-------------------------|-----|
| Sen. Mathern, Tim | Nay |
| Sen. Dever, Dick | Yea |
| Sen. Davison, Kyle | Yea |
| Rep. Louser, Scott | Yea |
| Rep. Martinson, Bob | Yea |
| Rep. Hanson, Karla Rose | Nay |

**REPORT OF CONFERENCE COMMITTEE
ENGROSSED SB 2004**

Your conference committee (Sens. Mathern, Dever, Davison and Reps. Louser, Martinson, Hanson) recommends that in place of amendment [25.0171.02007](#) adopted by the House, Engrossed SB 2004 is amended by amendment [25.0171.02022](#).

Engrossed SB 2004 was placed on the Seventh order of business on the calendar.

25.0171.02022
Title.
Fiscal No. 5

Prepared by the Legislative Council
staff for Senator Mathern

May 2, 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 (25.0171.02022) as follows:

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 a matter of the ethics commission, rules for complaint management time standards, and an ethics commission annual report; to amend and reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07, subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of the North Dakota Century Code, relating to immunity from criminal prosecution, definitions, ethics commission meetings, complaints, an informal resolution process, law enforcement referrals, findings, appeals, confidential information related to a complaint, 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 |
| Full-time equivalent positions | 3.00 | 1.00 | 4.00 |
| Ethics commission | \$1,041,374 | \$316,707 | \$1,358,081 |
| New and vacant FTE pool | 0 | 9,935 | 9,935 |
| Total general fund | \$1,041,374 | \$326,642 | \$1,368,016 |
| 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 |
| Office furniture | 2,348 |
| Total | \$52,348 |

SECTION 3. NEW AND VACANT ~~FTE~~FULL-TIME EQUIVALENT POOL - LIMITATION - TRANSFER REQUEST. The ethics commission may not spend funds appropriated in the new and vacant ~~FTE~~full-time equivalent 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~~full-time equivalent 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 to which ~~he~~the individual has or had access only in ~~his~~the individual's capacity as a public servant, ~~he~~the individual:
 - a. Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by ~~such~~the information or official action;
 - b. Speculates or wagers on the basis of ~~such~~the information or official action; or
 - c. Aids another individual to do any of the foregoing.
2. ~~A person~~An individual is guilty of a class A misdemeanor if as a public servant ~~he~~the individual takes official action which is likely to benefit ~~him~~the individual as a result of an acquisition of a pecuniary interest in any property, transaction, or enterprise, or of a speculation or wager, which ~~he~~the individual made, or caused or aided another to make, in contemplation of ~~such~~the official action.
3. An individual is immune from prosecution under this section if:
 - a. The individual was a member of the legislative assembly at the time the official action was taken;
 - b. The official action was a vote on a measure in the senate or house of representatives or a legislative committee; and
 - c. The individual adhered to legislative conflict of interest rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the president of the senate, or the speaker of the house.

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

Voting on legislation - Immunity - Affirmative defense.

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

1. Legislative rules requiring an individual to disclose a personal or private interest to the member's respective chamber of the legislative assembly, a legislative committee, the

president of the senate, or the speaker of the house, the individual and an organization for which the individual is an agent, as defined in section 12.1-03-04, is immune from criminal prosecution under the laws of this state for an offense arising from the individual voting on a measure in a legislative committee, the senate, or the house of 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. AMENDMENT. Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

54-66-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. ~~"Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.~~

~~2.~~ "Complainant" means an individual who, in writing or verbally, submits a complaint to the commission and is:

- a. A North Dakota resident;
- b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
- c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.

~~3.~~2. "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

~~4.~~3. "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.

~~5-4.~~ "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:

- a. Purely informational material;
- b. A campaign contribution; and
- c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to advance opportunities for state residents to meet with public officials in educational and social settings in the state.

~~6-5.~~ "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.

~~7-6.~~ "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.

~~8-7.~~ "Lobbyist" means an individual required to register under section 54-05.1-03.

~~9-8.~~ "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.

~~10-9.~~ "Receives the complaint" means one or more members of the commission learn of the complaint.

10. "Respondent" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.

11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

SECTION 7. AMENDMENT. Section 54-66-04 of the North Dakota Century Code is amended and reenacted as follows:

54-66-04. Ethics commission member terms - Meetings - Code of ethics - Compensation - Office.

1. The terms of the initial members of the ethics commission must be staggered to ensure no more than two members' terms expire in one year. The terms of the initial members may be less than four years to accommodate the required staggering of terms.

2. Unless the complaint at issue has resulted in the imposition of a penalty or referral for enforcement under section 54-66-09, any portion of a meeting during which commission members discuss complaints, informal resolutions, attempts to informally resolve complaints, investigations, or referrals under this chapter, the identity of ~~an accused individual~~ **a respondent** or complainant, or any other matter arising from a complaint are closed meetings.
3. The commission shall abide by a code of ethics adopted in a public meeting. The code of ethics must specify when a commission member is disqualified from participating in matters before the commission.
4. Ethics commission members are entitled to:
 - a. Compensation for each day necessarily spent conducting commission business in the amount provided for members of the legislative management under section 54-35-10; and
 - b. Payment for mileage and travel expenses necessarily incurred in the conduct of commission business as provided under sections 44-08-04 and 54-06-09.
5. The director of the office of management and budget shall allocate office space in the state capitol for the ethics commission, or, if office space in the capitol is unavailable, shall negotiate for, contract for, and obtain office space for the ethics commission in the city of Bismarck or in the Bismarck area. The ethics commission's office space may not be located in the office space of any other government agency, board, commission, or other governmental entity, and must provide sufficient privacy and security for the ethics commission to conduct its business. The director shall charge the ethics commission an amount equal to the fair value of the office space and related services the office of management and budget renders to the ethics commission.

SECTION 8. AMENDMENT. Section 54-66-05 of the North Dakota Century Code is amended and reenacted as follows:

54-66-05. Making a complaint - Summary dismissal of complaint.

1. A complaint may be made to the commission orally or in writing. If a complainant does not provide the complainant's name, address, and telephone number with the complaint, the ethics commission may not investigate or take other action regarding

1 the complaint. The commission shall summarize each oral complaint in writing unless
2 the complaint must be disregarded under this section.

3 2. Upon receipt of a complaint or information regarding a violation, the commission may
4 summarily dismiss the complaint or decline to proceed with a complaint if the alleged
5 violation does not fall within the commission's jurisdiction, is insufficient to identify a
6 possible violation, or fails to comply with rules adopted by the commission. In lieu of
7 summary dismissal, the commission may refer the matter under section 54-66-08.

8 3. If a complainant would like the complainant's identity to remain confidential, the
9 commission may not release the complainant's name and address to the ~~accused-~~
10 ~~individual~~respondent without the authorization of the complainant. If the complainant
11 does not authorize release of the complainant's name and address to the ~~accused-~~
12 ~~individual~~respondent, the statement of the complainant may not be used as evidence
13 of a violation.

14 4. If the commission receives an anonymous complaint that contains documentary or real
15 evidence of possible criminal conduct, the commission may refer the matter to the
16 appropriate law enforcement agency as provided under section 54-66-08, and may not
17 otherwise divulge the documentary or real evidence.

18 **SECTION 9. AMENDMENT.** Section 54-66-06 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-66-06. Informing the ~~accused individual~~respondent - Written response permitted -**
21 **Petition to dismiss complaint.**

22 1. Within thirty calendar days, the commission shall inform ~~an accused individual a~~
23 ~~respondent~~ of the complaint. Subject to the confidentiality requirements set forth in
24 section 54-66-05, the ~~accused individual~~respondent will be provided with the written
25 complaint or written summary of the oral complaint, witness statements, and other
26 documentary evidence included with the complaint. The ~~accused individual~~respondent
27 may provide a written response to the complaint within thirty calendar days, or after
28 the commission requests a written response to the complaint or summary of the
29 complaint, a period as set by the commission. This subsection does not preclude the
30 ~~accused individual~~respondent from providing a written response to the complaint
31 before receiving a request for written response from the commission.

2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the ~~accused individual~~respondent as required by this section, the notification to the ~~accused individual~~respondent must include notice of the summary dismissal.

SECTION 10. AMENDMENT. Section 54-66-07 of the North Dakota Century Code is amended and reenacted as follows:

54-66-07. Informal resolution.

The commission shall attempt to negotiate or mediate an informal resolution between the ~~accused individual~~respondent and the complainant unless the commission summarily dismissed the complaint under section 54-66-05. The ~~accused individual~~respondent may be accompanied by legal counsel in a negotiation or mediation. If the informal resolution process between the respondent and the complainant is unsuccessful, the commission may work with the respondent to settle and close the matter.

SECTION 11. AMENDMENT. Subsection 2 of section 54-66-08 of the North Dakota Century Code is amended and reenacted as follows:

2. If the commission believes a complaint contains allegations of criminal conduct, the matter ~~must~~may be coordinated with the appropriate law enforcement agency with jurisdiction over the offense. If the law enforcement agency agrees to accept a referral for ~~possible~~criminal prosecution, the commission may not take further action on the complaint until the law enforcement agency informs the commission law enforcement proceedings regarding the complaint are complete. If the law enforcement agency declines a referral for prosecution, the commission may investigate the complaint under the rules adopted by the commission. If the law enforcement agency takes no action on the referral for prosecution within sixty days, the commission may resume its review of the complaint. Unless the agency accepting the referral objects, the commission shall inform the complainant and respondent as soon as reasonably possible of a referral and the nature of the referred allegations.

SECTION 12. AMENDMENT. Section 54-66-09 of the North Dakota Century Code is amended and reenacted as follows:

54-66-09. Investigation findings - Ethics commission determinations.

1. An investigator, other than a law enforcement agency, of a complaint shall provide written findings of the investigation to the ethics commission within a reasonable amount of time. The ethics commission shall provide copies of the written findings and evidence considered to the ~~accused individual~~ respondent, who may respond to the commission in person or in writing within a reasonable time. If the ~~accused individual~~ respondent responds in person, no fewer than three members of the commission shall meet in a closed meeting with the ~~accused individual~~ respondent. ~~An accused individual~~ A respondent may be accompanied by legal counsel when responding to the commission in person. 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.
2. After providing a reasonable time for ~~an accused individual~~ a respondent to respond to the investigation findings and considering any response to the findings, the ethics commission shall determine whether a violation of article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying occurred, and inform the ~~accused individual~~ respondent of the determination. If the commission determined a violation occurred, the commission may impose a penalty authorized by law for the violation or refer the matter to the agency with enforcement authority over the violation.
3. The commission may not terminate the employment of a public official or otherwise remove a public official from the public official's public office.
4. The ethics commission may not reconsider, invalidate, or overturn a decision, ruling, recommended finding of fact, recommended conclusion of law, finding of fact, conclusion of law, or order by a hearing officer under chapter 28-32 on the grounds the hearing officer failed to grant a request for disqualification under section 28-32-27 or failed to comply with subsection 5 of section 2 of article XIV of the Constitution of North Dakota.
5. The respondent may petition the commission at any time to dismiss the complaint in the manner prescribed by the commission.

SECTION 13. AMENDMENT. Section 54-66-10 of the North Dakota Century Code is amended and reenacted as follows:

54-66-10. Appeals.

~~An accused individual~~ A respondent may appeal a finding of the ethics commission to the district court of the county where the ~~accused individual~~ respondent resides.

SECTION 14. AMENDMENT. Section 54-66-12 of the North Dakota Century Code is amended and reenacted as follows:

54-66-12. Confidential information.

1. The following information is a confidential record as defined in section 44-04-17.1, unless the commission has determined the ~~accused individual~~ respondent violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying, and a court affirmed the determination if appealed, except the information may be disclosed as required by law or as necessary to conduct an investigation arising from a complaint:
 - a. Information revealing the contents of a complaint;
 - b. Information that reasonably may be used to identify ~~an accused individual~~ a respondent; and
 - c. Information relating to or created as part of an investigation of a complaint.
2. If a complaint is informally resolved under section 54-66-07, the following information is a confidential record as defined in section 44-04-17.1:
 - a. Information revealing the contents of the complaint;
 - b. Information that reasonably may be used to identify the ~~accused individual~~ respondent;
 - c. Information relating to or created as part of the process leading to the informal resolution; and
 - d. Information revealing the informal resolution.
3. Information that reasonably may be used to identify the complainant is confidential unless the complainant waives confidentiality, authorizes its disclosure, or divulges information that reasonably would identify the complainant. Information, including evidence under consideration by the investigator or commission, deemed confidential under this subsection may be disclosed as required by law or as necessary to conduct

1 an investigation arising from a complaint to include disclosure of evidence being
2 considered to ~~an accused individual~~ a respondent.

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

6 **SECTION 15. AMENDMENT.** Section 54-66-18 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-66-18. Conflicts of interest - Legislative assembly.**

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

19 **SECTION 16.** A new section to chapter 54-66 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Complaint management time standards.**

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

24 **SECTION 17.** A new section to chapter 54-66 of the North Dakota Century Code is created
25 and enacted as follows:

26 **Ethics commission annual report.**

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

- 30 2. The annual report must include:

- 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 18. EMERGENCY.** Sections 4, 5, 10, 11, 14, and 15 of this Act are declared to be
13 an emergency measure.

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

| | Base Budget | Senate Version | Conference Committee Changes | Conference Committee Version | House Version | Comparison to House |
|-------------------------|----------------|-------------------|------------------------------------|------------------------------------|------------------|------------------------|
| New and vacant FTE pool | | \$246,304 | (\$236,369) | \$9,935 | \$9,935 | |
| Ethics Commission | \$1,041,374 | 1,349,937 | 8,144 | 1,358,081 | 1,333,647 | \$24,434 |
| Total all funds | \$1,041,374 | \$1,596,241 | (\$228,225) | \$1,368,016 | \$1,343,582 | \$24,434 |
| Less estimated income | 0 | 0 | 0 | 0 | 50,000 | (50,000) |
| General fund | \$1,041,374 | \$1,596,241 | (\$228,225) | \$1,368,016 | \$1,293,582 | \$74,434 |
| FTE | 3.00 | 4.00 | (1.00) | 3.00 | 3.00 | 0.00 |

Department 195 - Ethics Commission - Detail of Conference Committee Changes

| | Removes Communication and Education FTE Position ¹ | Adds Salary Workload Funding ² | Total Conference Committee Changes |
|-------------------------|--|---|---|
| New and vacant FTE pool | (\$236,369) | | (\$236,369) |
| Ethics Commission | (16,290) | \$24,434 | 8,144 |
| Total all funds | (\$252,659) | \$24,434 | (\$228,225) |
| Less estimated income | 0 | 0 | 0 |
| General fund | (\$252,659) | \$24,434 | (\$228,225) |
| FTE | (1.00) | 0.00 | (1.00) |

¹ A communication and education FTE position and related operating costs added by the Senate are removed, the same as provided by the House.

² Additional salary funding is added for workload increases for an operations administrator position. The Senate and House did not aid funding for this purpose prior to the conference committee amendments.

Senate Bill No. 2004 - Other Changes - Conference Committee Action

This amendment also:

- Provides one-time funding of \$50,000 from the general fund to implement the case management system, the same as provided by the Senate. The House provided one-time funding of \$50,000 from the strategic investment and improvements fund to implement the case management system.
- Creates and amends various sections relating to immunity, affirmative defense, the informal resolution process, and other provisions relating to the Ethics Commission.
- Amends various sections to change all references of accused individual to respondent within North Dakota Century Code Chapter 54-66.
- Creates a new section to require the Ethics Commission to prepare an annual report.
- Declares sections relating to immunity and affirmative defense to be an emergency measure.