

SENATE BILL NO. 2322

Introduced by

Senators Kreun, Hogue, Klein, Lee

Representatives Nathe, O'Brien

1 A BILL for an Act to create and enact a new section to chapter 32-12.2 of the North Dakota
2 Century Code, relating to state employee claims for wrongful criminal investigation or
3 prosecution; ~~to provide for retroactive application~~ to amend and reenact subsection 4 of section
4 44-08-05.1 of the North Dakota Century Code, relating to the disclosure of a pending
5 investigation; and to declare an emergency.

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

7 **SECTION 1.** A new section to chapter 32-12.2 of the North Dakota Century Code is created
8 and enacted as follows:

9 **State employee claims for wrongful criminal investigation or prosecution.**

10 1. The director of the office of management and budget shall pay from the risk
11 management fund the reasonable and necessary costs incurred by a state employee
12 as a result of a criminal investigation that was initiated by an executive branch agency
13 in which the state employee was acting within the course and scope of the employee's
14 employment and the investigation did not result in criminal charges.

15 2. The attorney general may direct the director of the office of management and budget
16 to pay from the risk management fund the reasonable and necessary costs incurred
17 by a state employee if, as a result of a criminal investigation that was initiated by an
18 executive branch agency and prosecution in which the state employee was acting
19 within the course and scope of the employee's employment, criminal charges against
20 the employee were dismissed or the employee was acquitted of any wrongdoing.

21 3. Payment under this section is limited to an investigation and prosecution involving
22 alleged conduct directly related to the state employee's employment or office. An
23 investigation and prosecution relating to a traffic and motor vehicle offense is not
24 eligible for payment under this section. Payment may not be made if a reasonable

1 possibility exists that subsequent criminal charges could be brought or charges are
2 dismissed or not brought for reasons unrelated to the innocence or guilt of the state
3 employee.

4 ~~SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to investigations~~
5 ~~arising after January 1, 2019.~~

6 **SECTION 2. AMENDMENT.** Subsection 4 of section 44-08-05.1 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 4. Any public officer or employee who fraudulently uses a purchasing card or knowingly
9 approves a payment for false or unlawful claims or which does not otherwise meet the
10 requirements of this section for approval may be subject to criminal prosecution under
11 title 12.1. Any public officer or employee who, without the use of ordinary care and
12 diligence, uses a purchasing card or approves a payment for false or unlawful claims
13 or which does not otherwise meet the requirements of this section for approval is
14 personally liable for any funds improperly expended. Any public officer, employee, or
15 any other individual who has knowledge of an actual or possible violation of this
16 section shall make that information known to the attorney general or the appropriate
17 state's attorney. The attorney general or appropriate state's attorney ~~shall~~may
18 investigate any alleged violation. If there is probable cause to believe that a violation
19 has occurred, the attorney general or appropriate state's attorney shall initiate a
20 criminal prosecution under title 12.1 or a civil suit against the public officer or
21 employee for the recovery of the funds as may actually have been improperly paid, or
22 may initiate a prosecution and a civil suit.

23 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.